

LESSONS OF THE EPA

Norman Girvan

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Introduction

In June 2000 76 ACP countries and the European Union signed the Cotonou Partnership Agreement that replaced the Lomé Convention that had governed EU-ACP relations since 1975. The mandate of the CPA was clear: the Economic Partnership agreements to be negotiated with the ACP regions were meant to contribute to sustainable development, poverty reduction, and regional integration while providing for the gradual integration of the ACP into the world economy. The EPAs were also required to be WTO-compatible. Thus the one-way trade preferences granted under Lomé were to be replaced gradually by reciprocal free trade. And the EPAs were supposed to embody partnership—a true partnership for development. Under the CPA and the terms of a subsequent WTO Waiver; the EU and the ACP were given until December 31, 2007 to conclude the new arrangements.

The CPA was only a framework agreement. The most important features of the EPAs were left for determination in the negotiations between EU and the ACP as a whole—Phase 1, 2001-2003; and with the six regional groups in Phase 2, 2004-2007. In the ensuing negotiations, different groups proceeded at different rates.

By early 2007, it was clear that the majority of the regions were not on course to conclude their EPAs by December 31. As the deadline loomed, the EC Trade Directorate, led by its Commissioner Peter Mandelson, made it clear that countries which failed to sign EPAS within the deadline would face the prospect of losing duty-free access to the EU market and incurring tariffs under the General System of Preferences (GSP) scheme; a situation that would severely disrupt their exports and thereby affect the livelihoods of thousands of workers and farmers.

However, ACP countries that were unable to complete negotiations for what was euphemistically called ‘full’ or ‘comprehensive’ EPAs were given the option of signing ‘Interim’ EPAs covering goods only, with an additional year or two years to complete the negotiations. 20 African and Pacific countries availed themselves of this offer. Alone of all the ACP regions, the Caribbean negotiating group-Cariforum, 14 Caricom states plus the DR—negotiated and initialled a ‘full’ EPA within the deadline.

THE CONTROVERSY OVER THE EPA

From before the EPAs were initialled a great deal of concern had been expressed that the agreements being negotiated fell far short of satisfying the Cotonou mandate to support sustainable development and regional integration. The view commonly expressed was that ACP countries were being, in effect, coerced by the EC into signing agreements to meet an artificially imposed deadline; and that these agreements that had much more

to do with the EC's global trade agenda than with the interests of ACP countries.

The concern came from several quarters—the ACP governments themselves, the Joint EU-ACP Parliamentary Assembly, development NGOs in both the ACP and the EU, the academic community—even the World Bank. Here is a sampling of these expressions.

The ACP Council of Ministers in December 2007 '*deplore the enormous pressure' exerted by the EU in the negotiations as being contrary to the spirit and the letter of the Cotonou Partnership...and declared that the "The European Union's mercantilist interests have taken precedence over the ACP's developmental and regional integration interests"*.

A Report of the Cotonou Monitoring Group, a network of European NGOs, that reviewed the EU negotiating mandates in the light of the ACP guidelines found that *the ACP-EU negotiations are primarily about the progressive and reciprocal liberalisation of trade in goods and services...not taking into account the level of development of the ACP countries and the economic, social and environmental constraints they are facing."*

As the details of the initialled EPAs emerged, these expressions of concern have reached a crescendo; and the evidence to support them has become overwhelming. According to a joint paper from the Overseas Development Institute and the European Centre for Development Policy Management, to respected think tanks based in London and Brussels respectively, the Interim

EPAs initialled show “*no clear pattern that the poorer countries have longer to adjust than the richer ones, or that the EPAs have been tailored to development needs (however defined)...a common perception is that there is little coherence between the EPA agenda and regional integration processes in Africa*” TNI 4/08 pp. 1-2).

Oxfam’s scorecard rates the EPAs on eight different development criteria derived from the CPA, and gives them a failing grade in all eight. It concludes that “*the EPAs will strip ACP countries of important policy tools they need to develop... fracture regional integration, exacerbate poverty and make it harder for countries to break away from commodity dependence*” (cover 21/4/08).

In a document sent to Caricom leaders in March, Havelock Brewster, Vaughan Lewis and I observed that ... *the development component of the Cariforum EPA has taken a back seat to the trade and investment liberalization component*’ and called for the agreement to be renegotiated.

Havelock Brewster in his paper on the “The Anti-Development Dimension of EPA” wonders how a “*serious consideration of the content of an economic partnership agreement focused on the development of the ACP countries could have produced such a text- one that consists almost wholly of market access and other trade –related modalities*” and concludes that the agreement should be returned to the drawing board. Sir Alister McIntyre, one of the region’s most distinguished and experienced economic diplomats, has expressed his ‘amazement’ at what came out of the EPA negotiations.

Very little media coverage in the region has been given to the results of a high-level Technical Meeting convened by the Commonwealth and the ACP Secretariat in Cape Town in April which concluded that the initialled EPAs that they were seriously lacking in a development dimension and should be renegotiated. In the words of the U.K.'s Glenys Kinnock, joint chair of the EU-ACP Parliamentary Assembly, *'trade liberalisation itself will not deliver economic development...and a recycled EDF 10 and the promise of aid for trade will not suffice'*

..

An equally unfavourable judgement has been rendered on the process leading up to the initialling of the EPAs. A Select Committee on International Development of the UK Parliament on progress of the EPAs (2004-2005) *'Condemned the negotiations for being non-transparent and conducted away from effective public scrutiny...(we are) 'Appalled at the cynical, manipulative way the EU was handling the negotiations, comparing it to a game of poker, where the winner-takes-all'*.

Back in November last four Caribbean citizens representing the academic, business and NGO communities addressed a public letter to Caricom Heads of Government calling for full public disclosure and discussion of the Draft EPA. In January a similar petition on the initialled agreement was supported by over 100 Concerned Citizens.

But it was clear that the final stages of the negotiations has been an exercise in crude economic power, in which the threat of imposing tariffs on ACP exports, on the grounds that the terms of the WTO waiver left the EC no alternative, figured highly. President Jagdeo of Guyana spoke out in January

that Caricom had been ‘bullied’ by the Europeans. He has maintained that stance in his most recent statement on the EPA last week. Similar comments came from the small island nations of the Pacific, whose trade ministers departed from normal diplomatic language to describe the negotiating approach of Peter Mandelson, the EC’s Trade Commissioner, as being ‘as divisive, harsh and unnecessarily domineering’.

In our own region, Professor Clive Thomas of Guyana, a veteran of over 50 years experience in trade and development matters, has written that ‘through a mixture of blatant bullyism, bribery, cajolery, deception, intellectual dishonesty and plain bluff the EU has ‘worked’ a monumental deception on the region’.

Speaking for myself, as someone with over four decades experience of academia, government and international organisations, I have so to say that rarely, if even, have I seen such a blatant and ruthless use of economic power to secure advantage as that used by the EC in the EPA negotiations, especially in its closing stages. It is truly a wake-up call to the region on the realities of the global environment in which we live.

In the remainder of this talk I will first review the trading links between the Caribbean and Europe, focusing on the areas of vulnerability that proved so influential in the negotiations. I will ask the question whether it was necessary to make the kind of agreement that was made, in order to protect ourselves from the consequences of this vulnerability. I will suggest that one explanation of this imbalance is that there is an ideological agenda to the EPA, an ideological agenda that has not been sufficiently ventilated, and that

we must now put on the table. I will talk about what we have gotten from the EPA and what we have given away. Finally I will suggest what lessons can be learnt from the experience, the kind of options that we may reasonably propose to the governments at this stage and the kind of things that civil society can do.

TRADING LINKS BETWEEN THE CARIBBEAN AND EUROPE

It might surprise many people to know that Caricom's trade with Europe is a mere 11% of its total trade; and this is the share of the European market in the region's merchandise exports to the world as a whole. Indeed if you look at the fact that exports of services are nearly one-half of total foreign currency earnings for Caricom and exceed the value of merchandise exports in most Caricom countries; the share of merchandise exports to Europe in the total amount we earn from doing business with the rest of the world is probably no more than 5-6%. Yet it was a desire to protect the existing levels of market access of these industries that drove the EPA negotiations, virtually from beginning to end.

Country	GSP SENSITIVE EXPORTS			PRODUCTS*	
	% EXPORTS TO EU	% TOTAL EXPORTS	% EXPORTS GOODS & SERVICES	Large change (<20% tariff)	Moderate change (10-20% tariff)
Belize	75.1	20.7	8.5	bananas, sugar	oranges
Guyana	72.3	27.7	21.8	sugar, rice, rum	
St. Kitts & Nevis	71.5	0.1	0.0	sugar	
Jamaica	47.6	11.0	4.3	sugar (canned ackee)	
Suriname	44.8			bananas, rice	
Dominica	42	7.4	2.3	bananas	
Dominican Republic				bananas, rum	
St. Lucia	27.4	11.1	1.0	bananas	
Barbados	21.7	4.2	0.5	sugar, rum	
Trinidad and Tobago	17.4	0.4	0.3	sugar, juices, jams	food preparations
Grenada	9.1	2.3	0.4	..	fish
St Vincent/Grenadines	3.9	1.2	0.2	bananas	
Bahamas	3.4	0.0	0.0	..	
Antigua & Barbuda	1.4	0.0	0.0	anchovies	

Note: 'GSP sensitive' exports refer to items that (a) account for 1% or more of the country's exports to the EU and (b) would experience a tariff jump of 10% or more under Standard Generalised System of Preferences (GSP) treatment by the EU. The 'most problematic products'--products that would experience a tariff of 20% or more are almost all agricultural or processed agricultural products, and include beef, dairy products, fish, cereals, sugar, processed foods and beverages, and cigarettes. * Refers only to products accounting for 1% or more of exports to EU

! T&T figure is based on TTMA statement made in the *Trinidad and Tobago Review*, that TT\$2 billion was exported to the EU in 2006, 75% of which is GSP-sensitive. \$2 B is \$317 USM which is 2.7% of T*T X for 2008 (14,110 M US)

Source: *The Costs to the ACP of Exporting to the EU under the GSP: Final Report*. London: Overseas Development Institute, March 2007; Table 5; and pp. 6-10

The EC insisted that the only alternative to concluding an agreement was the application on their part of tariffs, to replace the existing duty-free access, under their scheme known as the Generalised System of Preferences for developing countries. These tariffs are relatively high—the equivalent of 20% or more in most cases—on sugar, bananas, rice, citrus and certain manufactured food products such as fruit juices. These products, although a small share of the region's exports in value terms; are obviously important sources of income and employment in many Caricom countries—some more so than others.

The accompanying table shows a rough estimate of the share of the total merchandise exports of selected Caricom countries that are ‘preference-dependent’—that is, liable to face steep GSP tariffs if they don’t have duty-free access. By my reckoning the most vulnerable countries are Guyana, Belize, the banana exporting countries of the OECS, Suriname, Jamaica, Barbados and Trinidad and Tobago. The last three—the Caricom MDCs—are notable; because the weight of the preference-dependent industries in their exports is relatively small, especially when exports of services are taken into account. Yet these three countries have been probably the most aggressive in defending and promoting the EPA.

I rather think that is due to the considerable influence wielded by these industries in decision-making—the high level of organisation and the lobbying power of the sugar and rum interests in Barbados and Jamaica and the manufacturing exporters of Trinidad and Tobago; all of whom were among the most significant private sector stakeholders involved in the EPA negotiations.

Nonetheless the position of sugar and bananas in the EU market continues to be overshadowed by considerable uncertainty. In the case of bananas, this was highlighted by a Ministerial statement from at the recent COTED Meeting held last month; in which:

Ministers expressed their grave concern about the possible reduction in the EU’s Most Favoured Nation (MFN) tariff on bananas, which provides the necessary preferential margin that enables the Region to continue

exporting profitably to the European market. It was observed that the group of MFN suppliers – who were granted quota-free access to the EU market in January 2006 and whose exports have since increased by 20 percent - have continued to call for substantial reductions in the EU's tariff, the predominant effect of which would be to severely hamper the ability of Caribbean producers to compete in the EU market. It was noted that, once again, the Caribbean had found itself excluded from discussions between the EU and the MFN suppliers, the results of which could be devastating for its economic interests.

As the statement indicates, there is a feeling of powerlessness among the governments due to the sense the Europeans will simply negotiate or decide what is in their best interests and we will have to live with the consequences. This of course has happened many times in the recent past.

In the case of sugar, Caribbean producers are grappling with the consequences of the reform of the EU CAP that will reduce the reference price received by 35% and the unilateral denouncing of the sugar protocol by the EU last year, which brings it to an end in September 2009. The DFQF access given by the EPA will nonetheless be attended by considerable price uncertainty, and pits the region against low-cost African competitors. Also, the current EU sugar regime is in place only until 2015.

In recent years St Kitts and Nevis has abandoned sugar, Trinidad and Tobago is apparently doing the same, Barbados is diversifying from raw sugar into higher-value sugar products; and Jamaica, with Brazilian capital is going into ethanol.

Time did not permit my looking at the question of rice and manufactured goods; but the question arises whether it is necessary to make such far-reaching commitments under the EPA, as I shall shortly show; in order to preserve the existing market access of export industries that represent less than 6% of export earnings; some of which may prove temporary; and where the margin of preference is entirely dependent on agreements reached made by the EU in other negotiating arena. For indeed the Caribbean had the option of limiting the scope of the EPA to market access in goods and the limited number of services that are covered in the current WTO agreement.

Summary of the Cariforum EPA

As against this, we have an EPA of far-reaching scope and commitments under the EPA. It:

1. removes duties and all other restrictions on the majority of imports from Europe within 15 years
2. requires that such imported goods be given the same treatment as national and regionally produced goods
3. requires an overhaul of customs and trade administration to conform to standards largely set by Europe

4. circumscribes the kind of actions that governments are allowed to take to defend national producers and regional producers against unfair competition from bigger and much better European firms
5. grants EU firms immediate free access to the majority of our service sectors
6. requires that service suppliers from Europe be granted the same treatment as national and regional service firms,
7. restricts the ability of regional governments to regulate service industries in the public interest
8. allows European service firms to bring in their own people as senior managers without specific qualifications and recent graduates as interns,
9. guarantees that European firms that establish themselves here can repatriate their earnings freely without restriction on their capital and current payments
10. requires regional governments to pass new laws and set up new institutions in Intellectual Property, Competition Policy, Public Procurement, and e-commerce that are mainly aimed at facilitating European business and conforming to the European global trade policy agenda

11. pre-empts Caricom's own development policies in these areas and hence in effect supersedes the CSME process
12. establishes an implementation machinery, presided over by a joint Council with the EU and the DR with binding decision-making powers, in which the Europeans will hold the upper hand
13. establishes a Trade and Development Committee with powers to supervise, monitor and implement every aspect of the agreement;
14. establishes a Dispute Settlement Machinery which tightly circumscribes the ability of governments and government agencies to get out from under the obligations of the agreement and allows for punitive trade sanctions in the event of non-compliance
15. requires that OECS countries open their economies to imports from the DR as well as Europe, hence removing their special and differential treatment that they currently enjoy in the Caricom-DR FTA
16. requires that we extend to Europe whatever we might agree in the future with other large developing countries, and
17. is an international treaty with legally binding force, of indefinite duration, and with limited scope for revision

Finally, it sets a standard by which up-coming negotiations with the Canadians and the Americans will be judged, and indeed all negotiations. As you know Caribbean negotiations are about to begin; and there are other noises out of Washington that the US will be asking for the same treatment as the EPA.

The main quid pro quo granted by the EPA is DFQF access to EU market, except for sugar and rice in which short transition periods will apply. However, this is a privilege that Caricom countries have had for the majority of their exports to the European market for the past 33 years. CF exporters have not been able to make significant use of this because, of onerous non-tariff barriers and requirements including Rules of Origin, SPS and other Technical Barriers to Trade, insufficient capital, insufficient technology, insufficient knowledge of the European market. With the limited exception of some changes in the Rules of Origin, the EPA contains no legally enforceable obligations on the EU to take effective action in these areas. Havelock Brewster will address this at some length tomorrow.

In addition to market access in goods; major claims have been made on behalf of the EPA on two counts. The first is that the EU has liberalised access to over 90% of its service sectors for CF service firms and professional service providers. I do believe there has been some sleight of hand here, for the agreement erects so many terms and conditions of eligibility as to render the concession almost meaningless. The best guess is that it will benefit a handful of professionals from some Caribbean countries, in sectors where there is a temporary need for their services in some EU countries, and after the necessary mechanisms for mutual recognition and

certification can be set in place. Further, not all Caribbean countries have a sufficient supply of professionals and development of professional associations, to seek to utilise this; such as Trinidad and Tobago, Barbados and Jamaica.

As against this the Caricom MDCs have opened 75% of the service sectors to the EU and the LDCs, 65%; with a commitment to negotiate in further liberalization in the future. This carries with it obligations for national treatment of EU service firms, regulatory changes to suit the EU, and freedom for profit and capital repatriation.

Why should all Caricom countries be subjected to such disciplines when only a few degreed professionals in a few countries are likely to benefit? One wonders whether an alternative might not have been for those countries that want to trade market access to their service sectors in return for access by their professionals to Europe, to negotiate a special protocol to the EPA to this effect; leaving the region as a whole to review the matter at a later date; when they have had ample time to evaluate the costs and benefits and consider the results of the WTO negotiations on services.

Another major claim made of the EPA is that it activates development support for governments and the private sector. It is extraordinary how often this assertion is made when it is a matter of public record by the EU Development Commissioner that no additional development funding is available for the EPA. To be sure the entire text of the document is replete with promises of development support, beginning with a nice sounding chapter on Sustainable Development. Not one of these promises is

quantified, time-bound, or legally enforceable. They are entirely at the discretion of the Europeans. Those who have had experience of the cumbersome, time-consuming and self-serving procedures of the EDF will know how much faith to put into these procedures.

It is also quite extraordinary that when this observation is made, some quarters have been apt to dismiss them as ‘mendicancy’, or to take refuge in neo-liberal mantra the effect that liberalization of trade and investment in and of itself will deliver development. Everything that we know about economic integration between more advanced and less advanced countries tells us that it will increase the disparities between them if left entirely to market forces. The EU has a \$12 trillion economy that is 88 times the size of CF’s; a population that is 20 times larger; a per capita income is 4.5 times higher; and levels of human development and international competitiveness that are of course much higher. It has approximately 39,000 TNCs, in Caricom; we have ten Pan-Caribbean firms of any significance.

Both theory and experience tell us that there needs to be substantial resource transfers from the richer to the poorer partners to increase their productivity in export activities and help attract private investment. The Europeans have made appropriate provision for this in their own integration scheme; in Caricom, we have provisions for a Regional Development Fund. An entire chapter in the RTC is devoted disadvantaged, countries, sectors and regions.

Consider the following: The estimate of the adjustment cost of CF economies is E 924 M.! This is made up of fiscal adjustment costs; the cost

of export diversification, employment adjustment costs, the cost of skills/productivity enhancement, and other costs.

Milner Report

Prepared for the Commonwealth Secretariat in October 2005 by Dr Chris Milner of the School of Economics, Un of Nottingham, the Report identified

“...the type and scale of adjustment assistance measures that need to be implemented in the transition to an EPA in order to avoid or reduce the adjustment costs that would fall on ACP countries in the absence of this support. (Hence)... the study concentrates on how to make EPAs work and bring development benefits for the ACP countries.

- The report identified four broad category of adjustment assistance support costs,-
 - fiscal adjustment costs: due to need to revise or reform the structure of taxation from non-trade tax sources in order to replace the revenue lost from the removal of tariffs on imports. CARIFORUM: EU 375 m
 - trade facilitation and export development costs: support is required in order to reap the benefits of re-allocating resources (capital, labour, skills and land) away from import-competing sectors towards new export activities (under the stimulus of greater competition on the home market from EU exporters). Actual and potential exporters in ACP countries will need support with developing export products and gaining knowledge about export market opportunities. CARIFORUM 240 m EU
 - production and employment adjustment costs: programmes will be required because the reallocation of displaced resources from current (pre-EPA) activities to export sectors will not be immediate and smooth. ACP countries will need assistance with the adjustment experienced by workers (compensation for unemployment, support for relocation and retraining) and by firms (closure, production line restructuring etc). CARIFORUM 140 M
 - skill development and productivity enhancement costs: support programmes will reduce the costs of adjustment (contraction of import-substitution activities and expansion of export sectors) and increase the scope for dynamic benefits from export development. Increasing competitiveness and productivity levels in preparation for the full implementation of EPAs requires the enhancement of workers' skills, the improvement of firm's organisation and management structures and the development of supportive economic policies and infrastructures. CF 210

YOTAL FOR CARIFORUM: 924 M

ESTIMATED EPA ADJUSTMENT COSTS FOR CARIFORUM COUNTRIES (in million €) (in 2005-equivalent prices)						
NO.	COUNTRY	Fiscal Adjustment	Export Diversification	Employment Adjustment	Skills/Productivity Enhancement	Total Adjustment Costs
1	HAITI	50	20	20	30	120
2	DOMINICAN REPUBLIC	50	20	25	20	115
3	GUYANA	15	30	6	10	61
4	SURINAME	20	10	6	15	51
5	JAMAICA	40	12	12	15	79
6	BARBADOS	20	5	6	10	41
7	BELIZE	20	10	6	10	46
8	DOMINICA	20	5	6	15	46
9	GRENADA	20	30	6	15	71
10	ST KITTS AND NEVIS	20	5	6	15	46
11	ST. LUCIA	20	5	4	10	39
12	ST. VINCENT/GRENADINES	20	30	6	15	71
13	TRINIDAD AND TOBAGO	40	12	25	15	92
14	BAHAMAS	20	5	6	15	46
Total		375	199	140	210	924

Source: Extracted from data in Appendix 3 of Chris Milner, *AN ASSESSMENT OF THE OVERALL IMPLEMENTATION AND ADJUSTMENT COSTS FOR THE ACP COUNTRIES OF ECONOMIC PARTNERSHIP AGREEMENTS WITH THE EU*
Report to the Commonwealth Secretariat. Final Report (October 2005)

Development assistance under the CPA is delivered through the EDF. The amount programmed for the CF countries under the 10th EDF for 2008-2013 is U 165M. Of this, E 33 M is supposed to be for EPA implementation.

In other words, the amount set aside for EPA implementation from the 10th EDF is 4% of the total adjustment cost.

Now consider this. The EU gave E4 B to Ireland by the EU in 2000-2006. Ireland has 4.5 M people and the CF has 24M.

In per capita terms, the CF allocation is about 1/560th per year of that given to Ireland. Even allowing for the fact that Ireland is a member of the EU and we are not, the difference is startling.

Ireland has used these resources to modernise its social and physical infrastructure. The result is that it has attracted large foreign investment from the EU countries and has become a major exporter of high-tech services to Europe. Of course, we all know about Digicel!

As regards Aid for Trade, the EU has promised 2 Billion for The entire developing world; of which 1 B is supposed to be the entire ACP. CF is of course only a small part of the ACP. And only a portion of Aid for Trade can be used for adjustment costs.

WHY A FULL EPA?

The ‘full’ EPA of CF is far wider than what is required for WTO-compatibility, as called for by the CPA.

There are binding obligations on Investment and Current Account payments, Competition Policy, Public Procurement, Intellectual Property; and e-commerce. There are also chapters on Social Aspects and the Environment.

One the whole, these chapters oblige CF governments to ‘level the playing field’ so that EU firms will get the same treatment as local firms and that European regulatory standards are adopted.

By the same token, they will restrict the ability of CF governments to foster the development of local and regional enterprises and to regulate their economies in the public interest.

These obligations also pre-empt and prescribe the kind of CSME policy regimes that will be established in these areas; most of which are anticipated in the Revised Treaty of Chaguaramas.

We are now paying the price for continued delays in the implementation of the CSME. Nonetheless we could have omitted these areas from the EPA, or deferred negotiation until they had been settled in the CSME, or included in the WTO.

We ought not to accept the argument that their inclusion in the EPA will serve as an impetus to their completion in the CSME. The obvious flaw in that argument is the assumption that what is in the EPA is necessarily good for the CSME.

The CSME regimes will now be EPA-driven; rather than the result of an autonomous determination of what is in our interest; coupled with the result of a negotiation.

The irony is that these WTO-plus obligations will prevent CF governments from using the same kind of policies that the developed countries themselves employed to bring themselves to their present level of development, as shown in a brilliant book by Ha-Joon Chang, *Kicking Way the Ladder*.

For much the same reason, the developing countries including the Caribbean have insisted that Investment, Competition Policy and Public Procurement be excluded from the current WTO negotiations. They compromise the ability of developing countries to use employ policies for industrial development, for agricultural development, for the transfer of foreign technology.

These chapters in the EPA also oblige governments to pass new laws and regulations and to set up new institutions. Such implementation obligations that will be onerous, especially on the smaller and less developed countries in the region that have limited money and human power to implement them.

The EU's argument is that inclusion of these provisions will help to attract foreign investment by guaranteeing firms a stable policy environment. There is little empirical evidence to support this assertion. In the Caribbean we have been getting lots of foreign investment including European investment in energy, in tourism, in off-shore banking.

Foreign investment goes where there is money to be made: resources to be exploited, tax and regulatory loopholes, markets, productive and disciplined labour, macro-economic stability, responsible economic management and political stability. It is highly doubtful that you need a WTO-plus EPA to get foreign investment; indeed Europe is investing huge amounts of money in other developing regions without them having WTO-plus trade agreements.

What we do know is that these provisions are among the main features of the EU's 'Global Europe' strategy for global trade competitiveness. Their inclusion in the CF EPA creates a precedent for the EU to use in trade negotiations with the other ACP groups, with other developing countries.

Caribbean negotiators took great pride in being the first ACP group to negotiate a 'full' EPA with the Europeans. It seems they were convinced that there would be advantages in securing development assistance and in market access in services.

This argument is questionable on at least three grounds—empirical, political, and ethical.

Empirically it does not stand up because there are no binding commitments for additional development support in the EPA. Where Aid for Trade is concerned there is no assurance that the assistance will be available in the quantum, for the purposes, on the terms and on the timing necessary to be of real help.

Politically it is mistaken because it further divides the ACP and the developing country bloc in the WTO, it undermines a whole set of our South-South alliances and we may pay dearly for this in terms of support for our positions in the WTO. It plays right into the divide and rule strategies of the EU.

And ethically the idea of securing an advantage by 'proving' to Europeans that we are 'superior' to Africans in some way goes against everything that

this region has stood for in the struggle against colonialism, racism and apartheid.

OTHER CONTENTIOUS CLAUSES

Two other contentious matters are the clauses on Regional Preference' and on Most Favoured Nation Treatment.

Regional Preference requires Cariforum states to give to each other the same treatment that they give to the EU. The LDCs of Caricom—the OECS and Belize, will be required to open their markets to the Dominican Republic, which they were not required to do under the DR-CM FTA. (Will they be required to do the same for the CM MDCs?) On the face of it this eliminates the Special and Differential Treatment for the Caricom LDCs that is fundamental to the architecture of the Treaty of Chaguaramas.

The Most Favoured Clause requires Cariforum countries to grant Europe the same treatment they give to China, India, Brazil, the Southern Common Market (Mercosur), and any other developing country or trading group that reaches 1% of 1.5% of world merchandise exports.

Brazil has objected—the clause is also in the Interim EPAs signed by other ACP countries-- because it undermines South-South Cooperation and goes against the spirit of the GATT 'Enabling Clause' which guarantees Special and Differential Treatment for Developing Countries. Clearly, it restricts the Caribbean from negotiating preferential trade agreements with the emerging economies of the global South.

REGIONAL INTEGRATION

The EU is also arguing that the CF EPA will ‘reinforce regional integration’. I happen to believe that the very opposite is true.

As I said already the WTO-plus commitments of the EPA pre-empt the CSME regimes in a number of areas of fundamental importance to economic policy. If and when these commitments are fully implemented they will create a common policy space between Caricom, the Dominican Republic and the European Union in these areas; under joint supervision with the Dom Rep and the Europeans. There will of course be a virtual free trade zone and in goods and services and investment.

I have great difficulty in discerning what will be the meaning of the CSME when this is happens.

It is important to note the Caribbean Community, Caricom, as a juridical entity, is not a Party to the EPA. It has no legal standing in carrying out the obligations of the EPA, in holding the EU to account, in monitoring or implementing the EPA.

The Caribbean Parties to the EPA are the Cariforum states as a whole, in matters where they have agreed to act collectively. These areas of collective action are not listed in the EPA. And CF itself is not a juridical entity.

In matters of ‘where individual action is provided for or required to exercise the rights or comply with the obligations’, the Parties are the ‘signatory Cariforum states’. That is, 15 states in their individual capacities.

It turns out that the obligations of the ‘signatory CF states’ relate to specific, time-bound actions including removal of customs duties and non-tariff barriers, access to their service industries, and passing of new law and regulations.

The effect of this is to make the essence of EPA, legally, a set of bilateral obligations between each CF state and the EC, and indeed with every other CF state, including the Dom Re.

What does this mean for the coherence, the integrity, of Caricom? For one thing it amounts to a forced marriage with the Dom Rep in matters where CF states agree to act collectively. In these matters Caricom will have to come to common position with the DR, even when it has been difficult to come to a common position within itself.

Further it tilts bargaining power even strongly towards the EC in the implementation of the obligations of the agreement, where the EC will be treating with each of the individual states separately rather than with Caricom or CF as a whole.

Will this not serve as an incentive to the individual states to compete with one another in accessing the rights and fulfilling the obligations of the EPA?

It is even possible to imagine a situation in which a Caricom state brings a complaint against another Caricom member for failure to comply, and seeks the support of the EC for this.

GOVERNANCE OF THE EPA

An elaborate machinery is to be set up ensure to monitor implementation of the EPA and enforce compliance with its obligations.

There is to be a Joint CF-EU Council endowed with the power to take binding decisions. The Joint Council is Ministerial level and is composed of representatives of the European Commission, the EU Council, and EU member States. No limit is placed on the number of European representatives.

The Cariforum states are limited to one representative for matters on which they agree to act collectively. That's one that Caricom will share with the DR.

For non-collective matters the text is silent on how many representatives of signatory CF states have the right to attend and participate in decision-making. Is it only the affected State or is it all?

Decisions are by consensus which means that every representative has a veto right.

There is a dangerous vagueness about participation and decision-making in the Joint Council that can work to the disadvantage of Caricom countries. The EU will obviously have the upper hand in the power relationship. Caricom will have to share representation with the DR in collective matters. In other matters they will be dealing with the EU as individual entities.

Underneath the JC there is the very powerful Trade and Development Committee. This is composed of senior officials, with representation similar to the JC.

The TDC has the major responsibility for supervising the implementation of the EPA. Its responsibilities extend to every subject area in the EPA. It is mentioned 56 different times in the text. In all the key policy areas it has an oversight role, a decision-making role, and its decisions are binding.

Below the TDC is the Committee on Customs Cooperation and Trade Administration, which oversees the implementation of the corresponding chapter.

And then we have the Parliamentary Committee and the Consultative Committee for non-state actors. These have no legally binding powers. They are purely consultative. They can make recommendations to the JC but there is no obligation to carry them out. Of course, it's not hard to see out why those Committees are put there and how much clout they will have.

IMPLEMENTATION

The implementation of the EPA will be a huge task. According to an official estimate there are 336 identifiable implementation actions contained in the text—90 legislative, 72 institutional, 110 policy, and 64 other. The vast majority are required to be taken on provisional application of the EPA. In other words, they will begin immediately.

How in the name of heaven will the governments and the CCS be able to do this? The last time I checked there were 700 actions needed to establish the CSME and only one-half of these had been completed after five years. So how are we going to simultaneously implement the EPA and the CSME?

The CCS is saying that it will have to be completely restructured and get additional resources if it is to implement the EPA. Assuming that the whole of the RIP of the 10th EDF is allocated to EPA implementation—and this is unlikely—there will still be a resource shortfall of EU 236 M.

The hope is that the EC will come up with the additional money; even though it has said there will be no additional financing.

This looks like a Catch-22. If the EC doesn't provide the money we will be in breach of the agreement almost from Day One. We will be spending most of the next 10 years or so trying to catch up.

If the EC does provide the extra money, then the CCS will become virtually an instrument of the EC, an arm of the Brussels bureaucracy. It will be focusing on EPA implementation using EC money, on terms and conditions

that must meet approval by the EC, for an agenda set by the EC. That may well have been the intention.

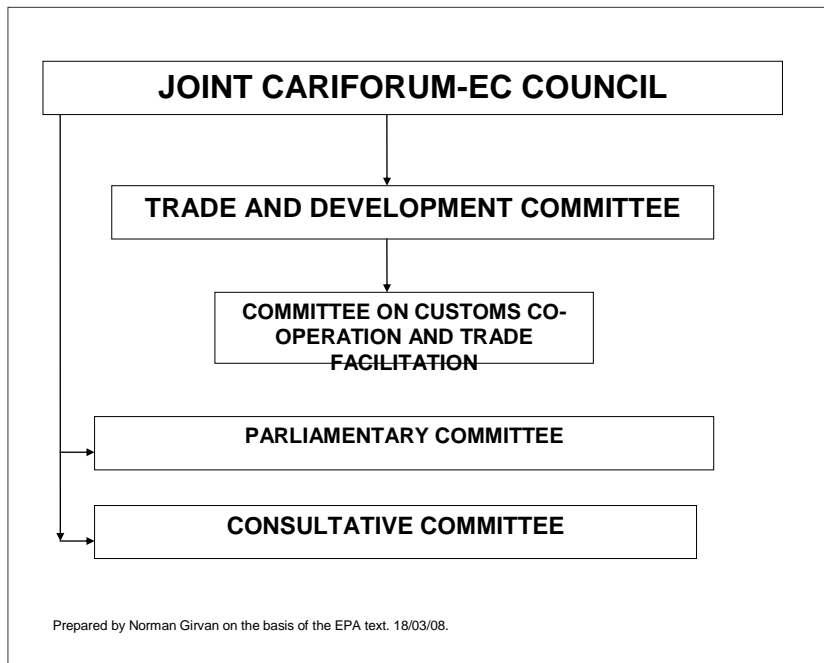
What will this mean for the autonomy of the CCS, its accountability to Caricom governments, its role in supporting Caricom's own regional integration agenda, in implementing the CSME?

The arguments for giving priority to the EPA over the CSME will be compelling.

The EPA is legally binding, it covers the same areas as the CSME but goes further, export market access is depends on it, development assistance depends on it, and EU money will be available for EPA implementation. And travel between the Caribbean and Europe has its attractions to both sets of officials, does it not?

My own view is that if this EPA becomes a reality, you can more or less kiss the CSME goodbye.

Implementation Machinery



LESSONS OF THE PROCESS

People always ask the question: if the EPA is so bad then why did we agree to it? It is perhaps the most important question of all, if we are to take away any lessons from this experience.

We have already referred to the threat to impose punitive tariffs on the exports of countries, non-LDC ACP countries, which did not reach an agreement by December 31, 2007; on the grounds of the expiry of the WTO waiver.

Everybody now knows that this was a political decision taken by the EC and its Trade Directorate, aimed at forcing the non-LDC ACP countries to agree to the EC terms.

The EC they had the option of continuing negotiations beyond the deadline. In fact, they have not yet notified the WTO officially of the initialled EPAs.

They also had the option of seeking an extension of the WTO waiver that was the basis of the deadline.

They had the option of modifying their GSP regime so that the tariffs would not be punitive.

They had the option of restricting the EPA to what was required for WTO compatibility.

They had the option of fixing a lower threshold of liberalisation to meet WTO compatibility.

They had the option of incorporating a true development dimension into the EPA.

They opted to do none of these things. They went for the maximum concessions they could secure in a highly unequal power relationship. They set a trap and we walked right into it.

Let us recognise that there are good people in Europe, there are well-meaning people in Europe, there are people who genuinely want development for the ACP and understand that this is in the long-term interests of Europe.

They are in the European Parliament, in national governments, are in NGOs, some may even be in the Development Directorate of the EC.

But they are not in the Trade Directorate. The Trade Directorate is neo-liberal and mercantilist and everybody knows that.

So in the closing months of 2007 when it became clear what the Europeans were demanding, they had us over a barrel. Trinidad and Tobago stood to lose in their export markets; they said that \$600M of manufactured exports would be affected.

Jamaica stood to lose—they said that their exporters faced the prospect of paying US\$72 M in tariffs to enter the EU market. Guyana stood to lose in its sugar exports.

The Windward Islands stood to lose on their banana exports facing huge tariffs—they wrote the PMs in a panic; Belize in citrus.

All these exporters lobbied the governments, they said we have to sign or people will be thrown out of work.

And the EC turned the screws. They let it be known that the computers had been programmed to impose the tariffs from January 1. European importers started to delay placing orders. The President of European Commission wrote PMs Golding and Arthur; he said there is no alternative.

The governments and the RNM had made brave noises about not being stampeded into meeting a deadline. That was just for public consumption. When the agreement was initialled in the early morning of December 16; it contained things that even a few months before were supposed to be non-negotiable; like the percentage of imports to be liberalised, like Regional Preference, like the MFN clause, like Public Procurement. And it was presented as a great victory for the Caribbean!

So, as one commentator said, the Caribbean and the ACP as a whole were ‘comprehensively outmanoeuvred’ by the EC. THOMAS.

What happened in December 2007 was the culmination of seven years of outmanoeuvring.

It started when the EU split the ACP into six regional groups for the EPA negotiations. They drove a further wedge into the ACP by the Everything but Arms preference scheme for the LDCs.

Phase 1 of the EPA negotiations—the all-ACP Phase on general principles—without binding agreement on the content of Phase 2, like what is substantially all trade, like the exclusion of WTO-plus Issues, like what

the development dimension would consist of. This was another tactical mistake; perhaps due to ACP naivety or opportunism, or both.

A major error, in my view, occurred at the time of the 2004 review of the negotiations under the terms of the CPA. This concluded with a determination that GSP treatment would be the only alternative to EPAs. From then on, the balance of bargaining power shifted decisively to the EU.

I also think it was a mistake to agree to a WTO-plus EPA without getting anything tangible in return. Many others share that view. But the CRNM does not agree, because many people in the CRNM are convinced of the validity of the argument that it is good for investment.

I do not know that the governments took a conscious decision on the inclusion of these chapters, in the knowledge of what they were getting themselves into; and of the implications for positions taken in the WTO. In any case, it happened.

The EU negotiated with clear objectives and they maximised their leverage by negotiating as a single bloc. The ACP, and to some extent CF, was divided and lacking in clear objectives except that of protecting the preference-dependent export industries.

Some people trace the problem further back, to continued reluctance in rationalizing the sugar industry in particular, because of the influence of the sugar lobby in Caribbean politics.

So we can point to several lessons:

- lack of strategic political management by the governments
- prevalence of ad hoc and expedient decision-making
- failure to maintain the ACP alliance
- failure to tap into potential sources of political support in Europe
- failure to agree upon and to present our own development agenda as the framework for the negotiations
- continuing delays in the implementation of the CSME
- agreement to negotiate on the EC template, a template that came directly out of the Global Europe project,
- ideological and institutional co-optation of key elites in the region

Of course, we know that voices of dissent, voices of criticism, were raised. But they did not have sufficient political and economic clout to influence the process.

Rallies were held in some islands by the CPDC. In Haiti, a “Stop EPA Campaign” was mounted. Academics sent memoranda to the CRNM. In November, a public letter was sent to Caricom governments. FITUN also sent a petition against the signing. In January, a public petition was signed by over 100 Concerned Caribbean Citizens.

An independent review commissioned by the COTED reported to the governments in March. It was critical of both process and the content of the EPA. At the same time, academics sent a letter proposing ‘Renegotiate the EPA’.

The Cape Town High-Level meeting of the Commonwealth Secretariat and the ACP Secretariat identified the deficiencies of the EPAs and showed how they could legally be renegotiated. This, too, was communicated to the governments.

President Jagdeo of Guyana and PM Thompson of Barbados have both publicly expressed misgivings about the EPA. Other leaders are believed to have misgivings, expressed in private.

Just a few days ago a Consulting Firm in Washington has said that the EPA jeopardises the one-way trade preferences granted by the U.S. to the Caribbean. They are saying that the EPA signing should be delayed until a solution is found.

But the governments are either unwilling or unable to go back on what has been agreed to in their name; to engage in the kind of public education and mobilisation of political support, both here and in the ACP and in Europe, that would be necessary to take on the EC Trade Directorate on the issue.

And the public pressure for them to do so—pressure from the trade unions, civil society, the private sector, the Opposition Parties—that kind of pressure is not there.

The Ministerial signing of the EPA is now scheduled for 23rd July. It is not, however, the final event. There will still be stages of Provisional Application, Ratification, and Bringing into Force.

So the job of public education and public advocacy must continue. At the very least, these efforts have stimulated some public debate; and helped to raise raised public awareness and knowledge of the EPA. This brings me to the last part of what I have to say.

WHAT NOW?

To begin with, we need to think of further ways to ‘liberate the EPA’ of its technical language, which intimidates and confuses people; bringing the language down to a level that ordinary people can understand. The Haiti Support Group’s petition on ‘Stop the EPA’ is a good example; the Oxfam paper on partnership or Power Play is a good example, of how.

In terms of advocacy, there are some clear-cut demands that can be made.

1. Renegotiate the EPA to remove its objectionable features and to insert features designed to protect the public, national and regional interest; preserve the space for autonomous development policy and protect the integrity of the regional integration movement.

Such renegotiation could be before the Ministerial signing; or after the signing but before Provisional Application; are after Provisional Application but before ratification and bringing in to force.

2. If a complete renegotiation is not feasible before signing and Provisional Application, then we can call for, at the very least, the insertion of two features into the agreement

- Development Benchmarks (social and economic) as legally binding monitoring instruments
- A Review Clause that compels an unconditional review of all EPA provisions after the first three years of operation, with possibility of renegotiation. There is a similar feature in the CPA.

3. If all else fails, then call for Cariforum or Caricom governments, should at the time of the Ministerial signing, to collectively issue a **Joint Declaration** stating that they are signing the EPA in spite of severe reservations but because of the threat of market access, and that they reserve the right to undertake a **comprehensive review of the EPA within three years of signature**, to determine its development impact and its impact on regional integration; and to seek, on the basis of such a review, a comprehensive renegotiation of the EPA in line with WTO rules and the development and integration needs of the region.

There is a precedent for this in the CPA which has a revision clause providing for review and revision of the agreement every five years.

Essential features of a Renegotiated EPA

- Limit the EPA to what is necessary to ensure WTO compatibility; covering trade in goods only; hence removing obligations that restrict policy space and compromise regional integration
- Seek the widest possible interpretation of what constitutes ‘substantially all trade’ vis-à-vis degree and phasing of liberalization of imports from the EU
- Phasing import liberalization in line with development of production capacities in import substitution and exports (Brewster) and with the Single Development Vision of Caricom
- Insisting on binding obligations for development support to assist in adjustment, diversification and cushioning in line with the phasing of import liberalization and the Single Development Vision
- Removing the ‘Regional Preference’ and ‘Most Favoured Nation’ clauses.
- Insertion of legally binding development benchmarks to be monitored by the Joint Parliamentary and/or Consultative Committees with legally binding powers
- Insertion of five-year Review clause

4. If the initialed EPA goes ahead, press for the governments to immediately commission an independent¹, socio-economic impact analysis of the initialed EPA to determine challenges, threats and opportunities to farmers, businessmen small and large, workers, women, youth, and recipients of public and social services; and insist that the people of the region will not be bound by it.

¹ i.e. probably the UWI, and must be government (not donor) funded

Finally, for the longer term, we need to work out how build alliances of like-minded individuals, groups and organisations, across the region including Haiti and the DR; across the ACP, across Latin America; across the Global South; north-south alliances with Europe, Canada and the US; alliances for public education, for advocacy, for monitoring.

Is it possible, for instance, that this meeting could be a platform to launch as permanent network of Caribbean Trade Unions and NGOs to monitor and engage in advocacy on the EPA, on Caribbean negotiations, on the negotiations with the US; on the progress of regional integration including the CSME; and for on-going networking with similar organizations in the South and North? A kind of Caribbean Citizens Trade Network, so to speak?

CONCLUSION

In closing, let me share with you a message received from a colleague involved with the EPA Pacific negotiations.

“The EPA negotiations have been extremely depressing for those of us who had, perhaps naively, believed that EPAs might actually lead to some development. I was given a book by Ed Vrkic on ‘Breaking Open of Japan’ about US commodore Perry mission to Japan in 1853. President Filmore sent a letter with Perry asking for a treaty opening up Japan to trade. He sent Perry with 4 huge battleships to Tokyo (clearly the Americans postal service was even then very poor). The following year Perry came back for a reply with 10 gunships. (this was a quarter if the US navy -the Japanese clearly got the message!). He signed the Treaty of Kanagawa which ‘opened Japan’ to what they politely called ‘commercial intercourse’ in the 19th century. (The obvious comments about men with big guns looking for ‘commercial intercourse’ seems inappropriate!)Four years later

Commissioner Harris was dispatched by Washington and he signed what was called the 'Treaty of Amity and Commerce' or the Harris Treaty, Below is summary of some provisions as described in the book by Feife (Breaking Open Japan, page 321-2)

- 1) 'They (Japan) relinquished the right to establish tariffs on incoming or outgoing goods, which the treaty set [In other words no EXPORT TAXES]*
- 2) 'Another tenet carried over from Perry's Kanagawa Treaty was a MFN clause that automatically gave the US any privilege Japan might grant. That feature of so-called 'hitch-hiking imperialism' delivered further profit by sharing advantages secured by other countries – advantages that put a straightjacket on Edo's(Tokyo) foreign policy by depriving it of the ability to manoeuvre among nations [MFN clause]*
- 3) Placing many goods on a tariff free list and setting a maximum of 5% ...it prevented Japan from protecting its infant industries.... To raise the capital required for continued industrialization the government turned to oppressive domestic taxes. [removal of infant industry]*

All of this is painfully familiar to anyone who has been through the EPAs in the last six months.

The humiliation of Japan in this treaty by US and European powers is, in part, what fed the militaristic backlash in Japan and led inexorably to WWII. “

Our own history in the Caribbean is proof that an unfair regime cannot stand the test of time. An unjust arrangement cannot last, if people don't accept it, if they resent it, if they don't believe it is in their interest, they sabotage it, they circumvent it, they adopt passive resistance, and they overthrow it at the first opportunity.

I have a feeling that the same fate will befall the EPA, sooner or later. We can work to make it sooner.