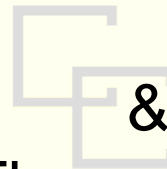


The Emergence of an EPA

A CARICOM Perspective

Calvin Manduna, Trade Policy Analyst,
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Presentation Overview

- CARICOM and CARIFORUM Overview
- CARIFORUM EPA Objectives
- Progress in selected negotiating areas
- The road ahead – concluding the EPAs

CARICOM, CARIFORUM Overview

Keisha-Ann Thompson
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CARICOM

- **Members – 15 Member States**

Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent & the Grenadines, Suriname, Trinidad & Tobago.

- **5 Associate Members**

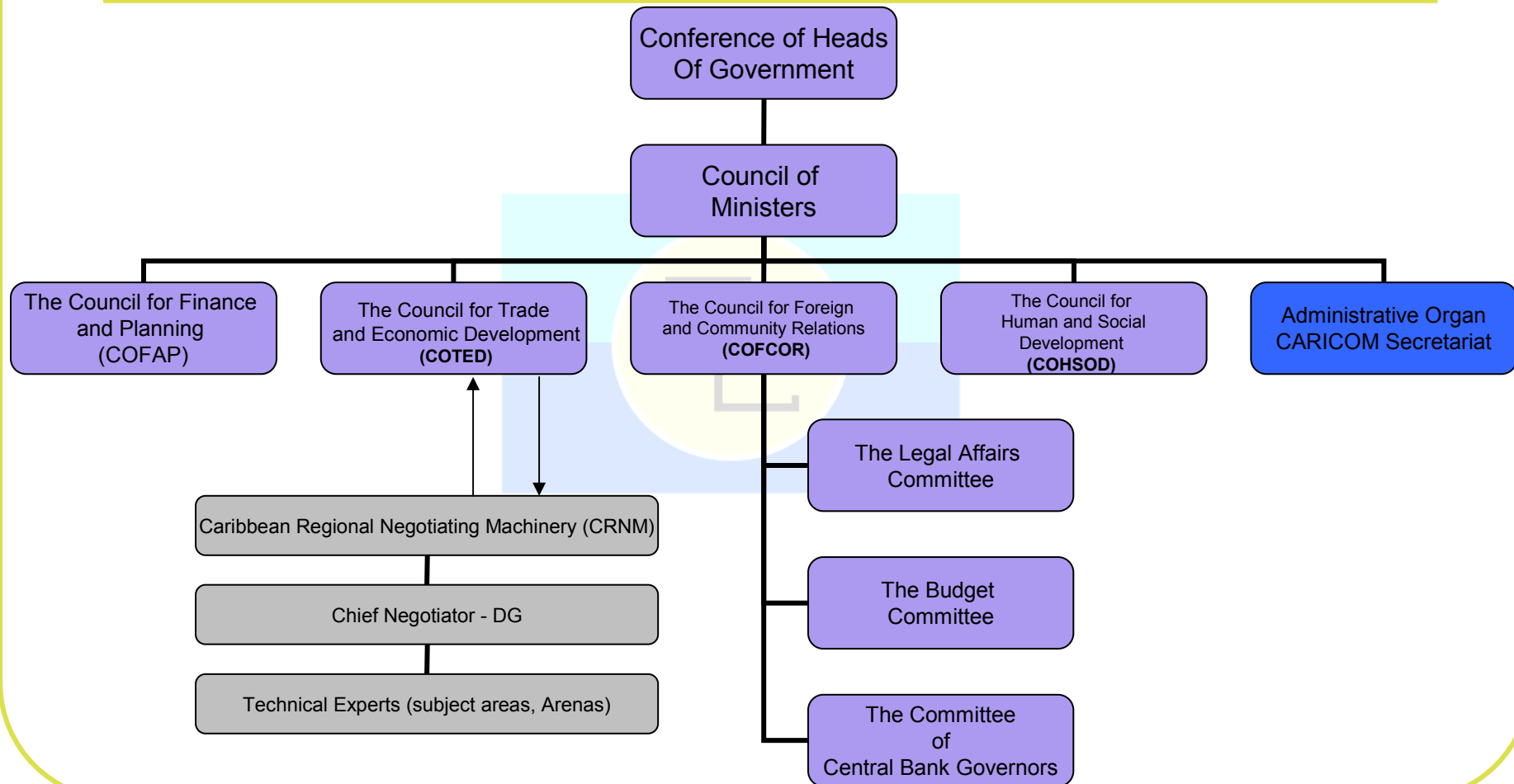
- **7 Observers, including Dominican Republic**

- **Established by Treaty of Chaguaramus, 1973**

CARICOM Integration Progress

- Efforts at Integration started as early as 1958 (British West Indies Federation 1958 to 1962)
- Free Trade Area = CARIFTA (1967) to a Customs Union = CARICOM (1973)
- Caribbean Single Market and Economy (2001) (CSME) – Not fully Implemented
- CSM covers the free movement of goods, services, capital and skilled persons
- CSM implemented for 12 of 15 members
- CSM – 5 areas still subject to study and agreement but should be consolidated by 2008
- CSME – Process will start in 2008 and is to be fully completed by December 31, 2015
- Not political integration but rather focused on policy coordination
- Note- within CARICOM 7 members belong to a CU with shared currency and central bank – OECS

Community Organs and Bodies



What is **CARIFORUM**

- CARIFORUM refers to CARICOM and the DR in the context of the EPAs
- Not a legal entity = not an integrated grouping
- Some level of integration - CARICOM/DR FTA (operational since 2001- goods)
- Raises some important concerns in the context of the EPAs

Concerns

- The nature of obligations and how these should be undertaken
- Whether the EPAs require the formation of a Customs Union with CARIFORUM – i.e. Does the EPA force deeper integration?
- Would the formation of a Customs Union resolve all issues in the EPA?
 - Market Access - Free Circulation Issues
 - Services and Investment
 - SPS Measures
 - Competition Policy

Answers

- Deeper Integration-A CARIFORUM CU?
- No necessarily – no need for supranational entities- cooperation
- Observer status of DR allows some level of coordination at various policy levels (any of the 4 organs as well as Council) since according to the Treaty they can be invited to participate on specific agenda items
- CU cannot resolve all issues – Essence of Article XXIV

CARIFORUM Trade Profile

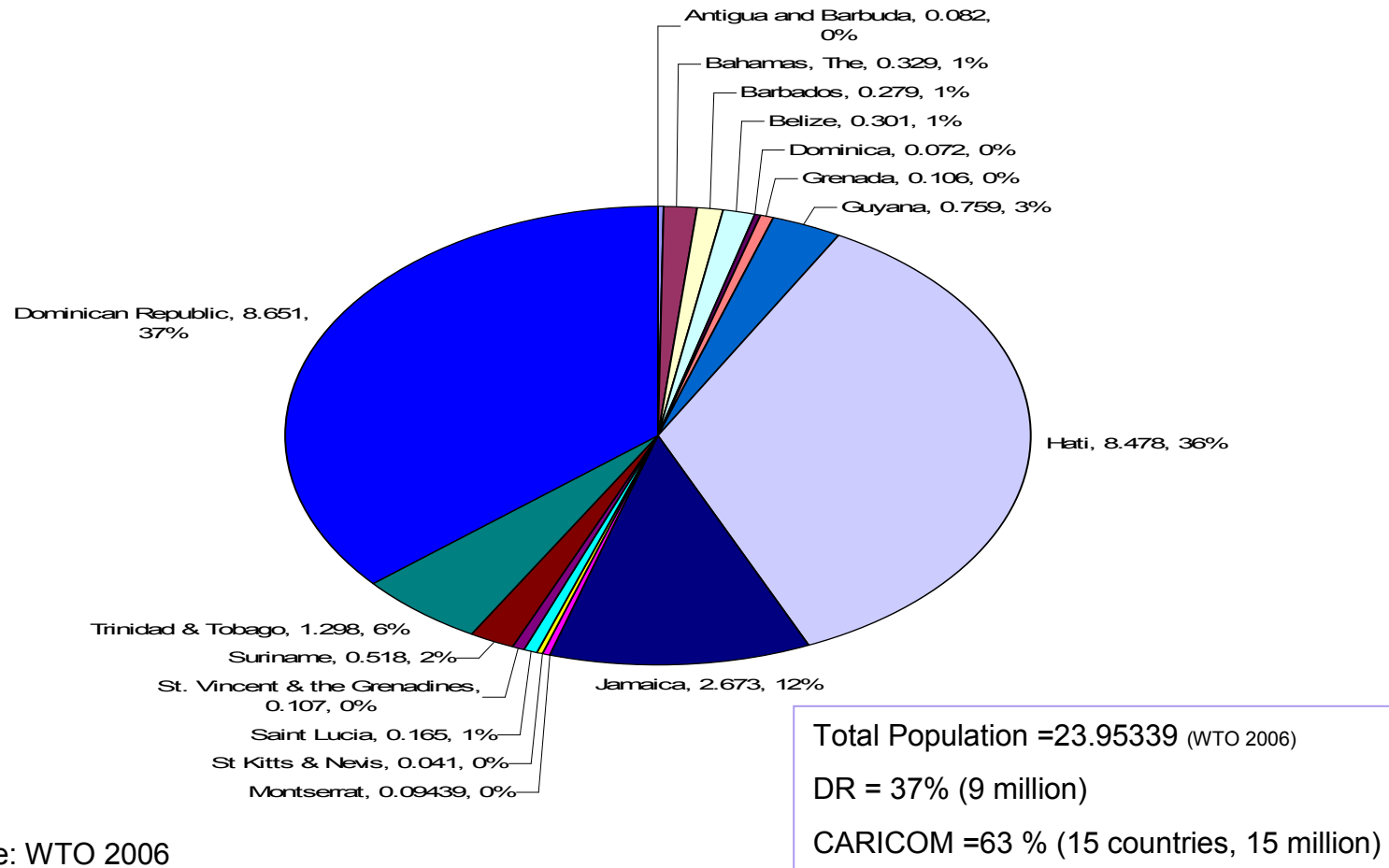
- Intra-Regional Trade has been described as stagnant , despite CSM (90% liberalised trade) and FTA with DR
- Services are major contributor to GDP (excl. Guyana)
- All characterised by deficits in merchandise trade (persistent)
- Exports concentrated in a few products (agriculture, tourism – the strength shared by all!)
- Share in world trade 0.04%
- For the majority of goods the bound rate is above the applied rate
- The region has an average trade to GDP ratio of 123%, reflecting a high degree of openness
- Trade Taxes 8.5 % of GDP
- Majority of the Region's trade is with the US
- The EU is the 2nd largest trading partner, but declining
- Trade deficit with the EC
- Total value of Trade with the EC – US\$4 bn (2002-04 Average)

Top 5 (by Value) Exports to the EC

CARIFORUM (2002-2004)

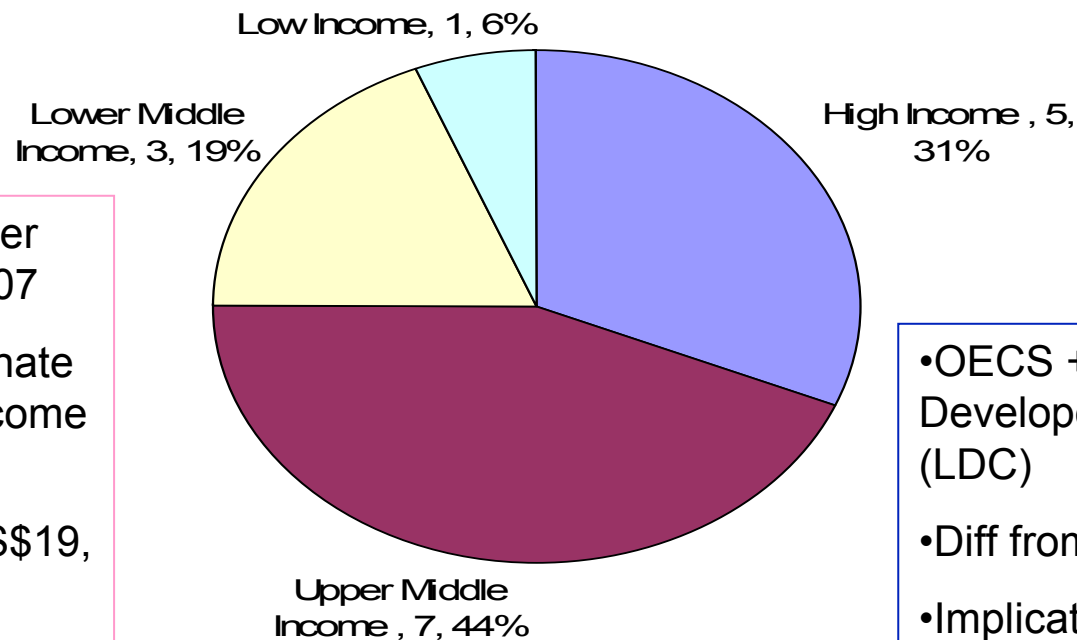
- Excursion Boats
- Aluminum Oxide
- Undenatured ethanol
- Yachts
- Sugar Cane

CARIFORUM Diversity - Market Size



Source: WTO 2006

CARIFORUM Diversity - Income Levels

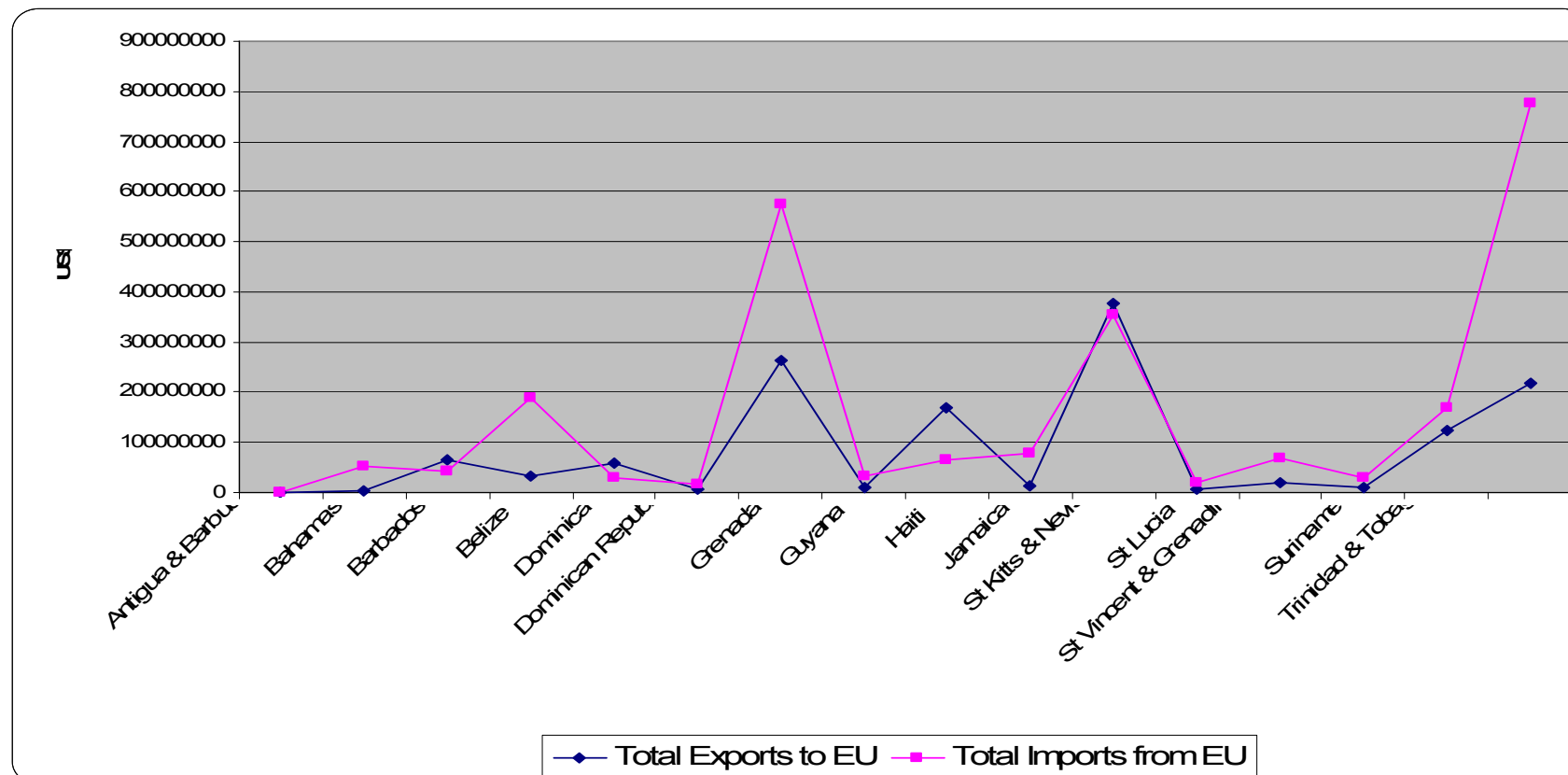


- Average GDP per capita = US\$7,107
- OECS (7) dominate high to upper Income group
- US\$500 and US\$19,000 per capita (approx.)

- OECS + Haiti = Lesser Developed Countries (LDC)
- Diff from UN designation
- Implications for S & D and compatibility of EPAs with Treaty

Source: WTO 2006

CARIFORUM Diverse Trade Pattern - Trade With the EC (2002-2004)



Source: CRNM

Some Critical Issues Shaping The EPA in the Region

- Small Size (implications for negotiating capacity, ability to deal with costs of adjustment)
- WTO Compatibility (affects the level of asymmetry secured in the EPA as well as the extent that issues peculiar to small states are addressed)
- How will EPA be managed to achieve a more equitable result
- How to achieve compatibility with the Treaty (including the OECS and Haiti)

CARUIFORUM EPA Objectives

Calvin Manduna, Trade Policy
Analyst, Ministry of Foreign Affairs
and Foreign Trade, Kingston,
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CARIFORUM Objectives in the EPA

The core objectives of the partnership are:

- Establish a comprehensive framework for future EU – ACP relations;
- Economic development, poverty reduction and eradication;
- Integration of ACP States into the world economy;
- Allow for transition to a different type of export profile;
- Socially and environmentally sustainable economic development;
- Structural transformation
- Appropriate pace of adjustment

CARIFORUM EPA negotiations guided by Article 34 Cotonou principles

- Establish a WTO-compatible trading arrangement;
- Support and build on regional integration process;
- Promote CARIFORUM development objectives
- S&DT for CARIFORUM SVEs,
- An asymmetrical approach to trade liberalisation and variable geometry;

CARIFORUM EPA negotiations guided by Article 34 Cotonou principles:

- **Flexibility** regarding individual countries' implementation schedules;
- Use of the **Lomé and Cotonou** *acquis* in respect of market access for both traditional and non-traditional Caribbean exports;
- Establish a commitment to engage in **consultations** on any matter deemed necessary in order to safeguard the benefits of the agreement;
- Enhance **international competitiveness** and assist in **capacity building** by synchronizing the delivery of **development cooperation** with the process of trade liberalization and the adjustment.

Organisation of the negotiations

A. Structure

The EPA negotiations involves a three-tier structure:

- Ministerial level – troika of Ministers, Barbados as lead Ministerial Spokesperson
- Principal Negotiator – CRNM Director General,
- College of Negotiators – deal with specific negotiating areas at a technical level

This structure is supported by:

- Technical Working Groups – to develop negotiating positions on different subject areas

Organisation of the negotiations

- **Regional Preparatory Task Force** – A joint body established in order to cement the strategic link between EPA negotiations and development co-operation.
- Membership of the RPTF includes representatives of regional and national authorising officers, regional secretariats, Non-State Actors.
- Recourse to other organs when decisions required, e.g. COTED, COFAP etc.

Organisation of the negotiations

B. Schedule of the CARIFORUM - EU EPA

1st Phase: Apr - Sept 2004

- Establishing Negotiating Priorities
- Identifying main objectives, concerns and interests, policies and tools for CARIFORUM regional integration
- Consider priority issues for in-depth discussions in subsequent phases

2nd Phase: (Sept 2004–Sept 2005)

- Convergence on Strategic Approach to CARIFORUM Regional Integration
- Establish a common understanding of the priorities for support of Caribbean regional integration

Organisation of the negotiations

3rd Phase: Structuring and Consolidating of Negotiations (Sept 2005–Dec 2006)

The focus of this phase was to:

- Forge consensus on the structure of the EPA agreement
- Consolidate the outcomes of discussions on priority issues for CARIFORUM regional integration
- Agree on an approach to trade liberalisation

Organization of the negotiations

Final Phase: Finalisation of the Agreement (Jan– Dec 2007)

The focus of this phase is to:

- Conclude market access, services and investment negotiations
- Complete final text of EPA, initial and begin ratification process
- No new or more discriminatory measures against foreign services & service suppliers should be introduced by either Party after start of negotiations.

Organisation of the negotiations

C. Substantive discussions

Four negotiating groups:

- Market Access (goods & agriculture)
- Services and Investment
- Trade related Issues (competition, IP, Government Procurement, trade remedies, etc.)
- Legal and Institutional Issues (dispute settlement, etc.)

Focus of CARIFORUM Preparations

- The CRNM has been developing CARIFORUM negotiating positions through research and consultations and Technical Working Groups
- Developing CARIFORUM market access requests and offers for goods, services and investment
- Developing the EPA text (especially development and S&DT provisions)
- Identifying specific market access interests – offensive and defensive
- Developing sector-specific development projects which can be EU-funded

Costs and benefits of the EPA for CARIFORUM

- Difficult to quantify either the costs or the benefits.
- CARICOM has been seeking to conduct EPA impact assessment studies at the national and regional levels;
- Address the challenge of lack of Competitiveness across firms and industries.

Costs and benefits of the EPA for CARIFORUM

Benefits

- Secure preferential market access for diversified products and services into the EU market
- Stimulate development of products outside of traditional exports
- Renewed **focus on services** sector as the driver for economic growth
- Locking-in economic and policy reforms
- Accelerated harmonization and regional integration
- Securing sustained EU assistance for diversification and innovation, adjustment and pursuit of competitiveness
- Harness increased inflows of EU FDI and technical support

Costs and benefits of the EPA for CARIFORUM

Costs

- Erosion of preference for sugar and bananas
- Loss of tariff revenue
- Competition from increased EC imports
- Costs associated with sectoral restructuring and adjustment
- Costs of implementation
- Experience with trade agreements has shown poor private sector uptake – lack of supply capacity
- Challenge of developing exports beyond UK
- Reduced policy space, e.g. EC proposals relating to investment

Specific Negotiating Areas: Where are we now?

Major areas of convergence

- Developed consolidated draft legal text covering 4 subject areas, albeit with a number of square brackets.
- Convergence of views on the centrality of Development and issues such as Competition Policy, Transparency in Government Procurement, Treatment of Environmental Issues, Personal Data Protection, TBT and SPS
- Legal and Institutional issues – there is a convergence of views on the scope and structure of the agreement and the establishment of an EPA Council to oversee its implementation
- Collective vs individual obligations?

Specific Negotiating Areas: Where are we now?

Major areas of divergence

- Approach to Tariff Liberalization
- Nature of Parties to the Agreement
- Attaining binding commitments on EC Development Cooperation (Funding)
- Good Governance in Taxation. I will comment briefly on these four areas of divergence.

Approach to liberalization: variable geometry

- CARIFORUM emphasis on two levels of regional integration in the Caribbean which created a need for a “variable geometry” in the context of an EPA.
- Special provisions for CARICOM-designated LDCs within the framework of the Revised Treaty of Chaguaramas and external bilateral trade arrangements.
- CARIFORUM proposed the concept of variable geometry and S&DT in relation to CARICOM LDCs
- Question of Haiti and Bahamas in the context of the CSME
- The EC initially pressed for CARIFORUM to establish a Customs Union. This was rejected by CARIFORUM.
- The EC is now pressing for the completion of single regimes in goods, services, investment and a range of other disciplines.

CARIFORUM Priority Needs

CARIFORUM identified 11 priority needs that were submitted to the Regional Preparatory Task Force (RPTF) for consideration. These included support for:

- Investment Promotion and Statistics;
- Structural Reform of Financial Services and Taxation Issues;
- Technical Barriers to Trade (TBT), Sanitary and Phytosanitary (SPS) Measures;
- Trade Facilitation/Risk Analysis;
- Harmonization and Rationalization of Incentive Systems;
- Competition Policy, Government Procurement and Intellectual Property Rights.

Funding and development cooperation

- Concern over the non-delivery of resources to support measures identified as priority issues to prepare the Region for the start of negotiations.
- EC – no additional resources for the EPA negotiations
- EC proposes that RPTF priority issues be funded from the 10th European Development Fund (EDF) programme, the EC's Aid for Trade allocation to developing countries in the context of the WTO, and from an international donor pledging conference.

Market Access

- Both areas of convergence and divergence
- The EC initially pressed for CARIFORUM to establish a Customs Union. This was rejected by CARIFORUM.
- The EC is now pressing for the completion of single regimes in goods, services, investment and a range of other disciplines.
- CARIFORUM has countered with the concept of variable geometry and the established principle of differentiation in relation to CARICOM LDCs.

Market Access

- EC proposed a single starting tariff schedule (requiring harmonization of tariffs in a unified region) – based on the lowest applied tariff in the region.
- April 2007 – EC offered duty free – quota free (DFQF) access to its market for all products from all ACP countries, with transition period for sugar.

Market Access - Sugar

- Sugar will be transition to DFQF over 10 years. Sugar protocol will cease to apply in 2009. Additional tariff quota will operate up to 2015 on a first come first served basis. After 2015 sugar will be DFQF i.e. fully liberalized.
- EC will seek to maintain the price at a level above the prevailing world market price through a safeguard mechanism.
- EC intends to denounce the Sugar Protocol

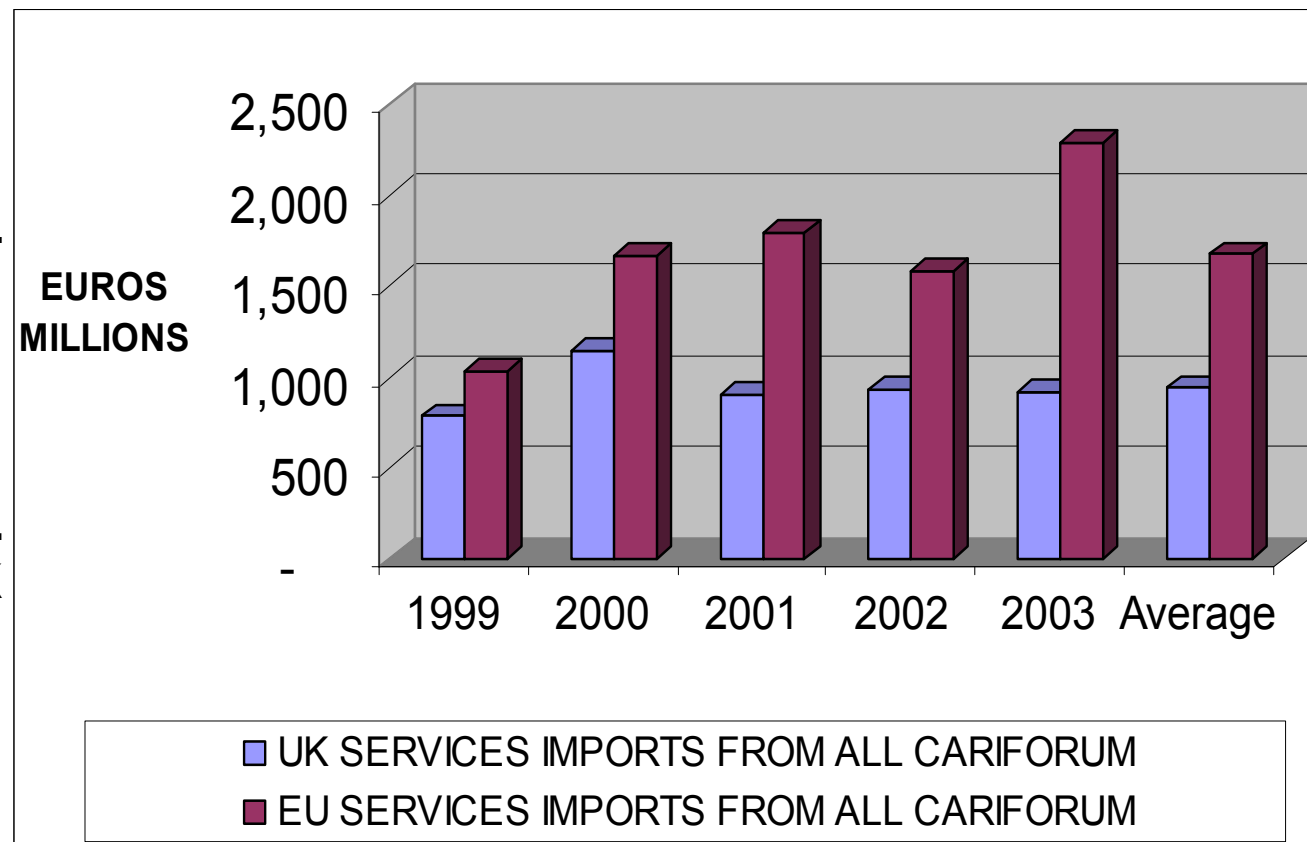
Other issues

- Taxation/Governance Issues
- Intellectual Property
- Transparency in Government Procurement
- Investment

CARIFORUM – EU Services Trade

EU Versus UK Services Imports from CARIFORUM 1999-2003

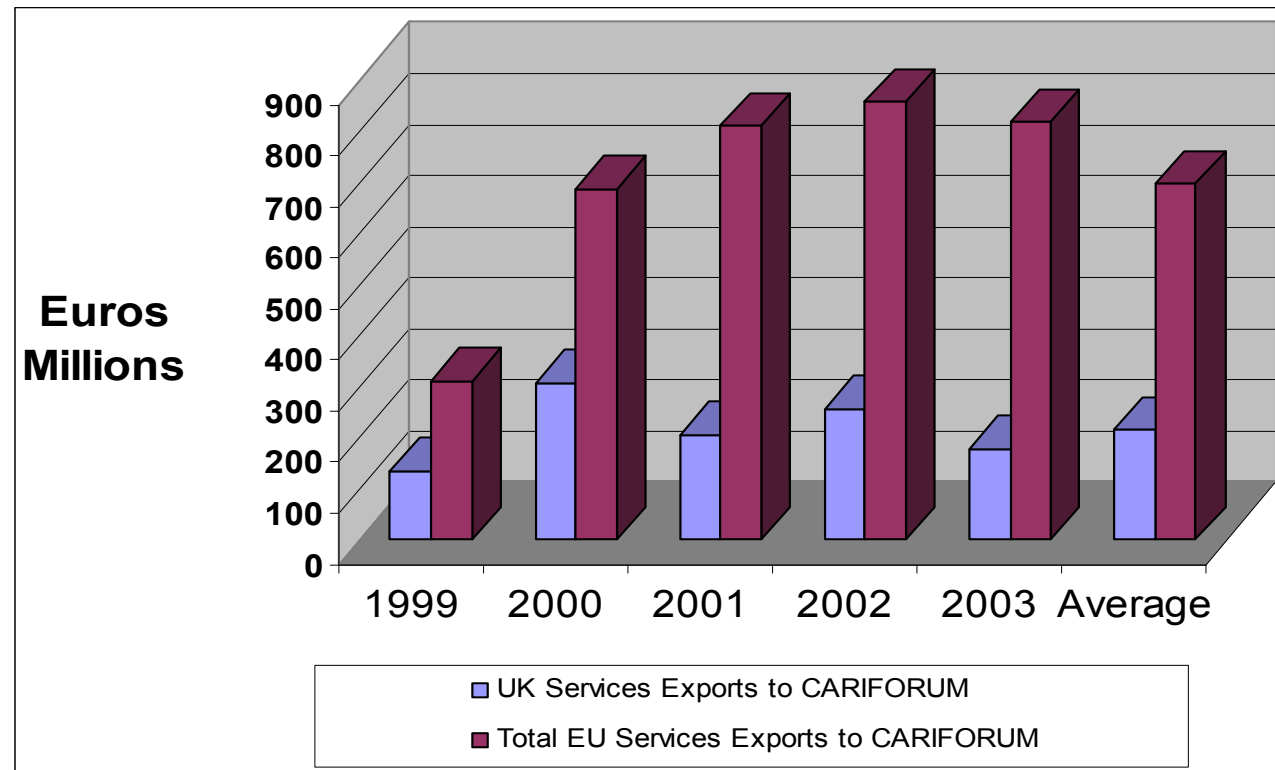
Dominated by UK – accounts for an average of 33% of services exports to CARIFORUM (1999-2003) and an average of 59% of services imports from CARIFORUM between 1999-2003. Mostly travel by UK residents



CARIFORUM – EU Services Trade

EU Versus UK Services Exports to CARIFORUM 1999-2003

EU services imports dominated services exports resulting in a net services trade deficit for the EU with CARIFORUM in all years from 1999-2003. This amounts to a net services trade surplus from the perspective of CARIFORUM.



Average Value of EU Exports to, & Imports from CARIFORUM 1999-2003 (Euros Millions)

Average (1999-2003)	Services Exports	Services Imports	Services Balance
UK SERVICES WITH ALL CARIFORUM	216	937	(721)
UK SERVICES AS % TOTAL EU SERVICES WITH CARIFORUM	33%	59%	
TOTAL EU SERVICES WITH ALL CARIFORUM	696	1,672	(976)
Transport	49	114	(64)
Travel	105	1,000	(895)
Communication services	3	42	(39)
Construction services	47	22	25
Insurance services	85	71	14
Financial services	31	11	20
Computer and information services	23	1	23
Royalties and licence fees	1	1	0
Other business services	231	150	81
Personal, cultural and recreational services	2	1	1
Government services	1	17	(16)

CARIFORUM – EU Services Trade

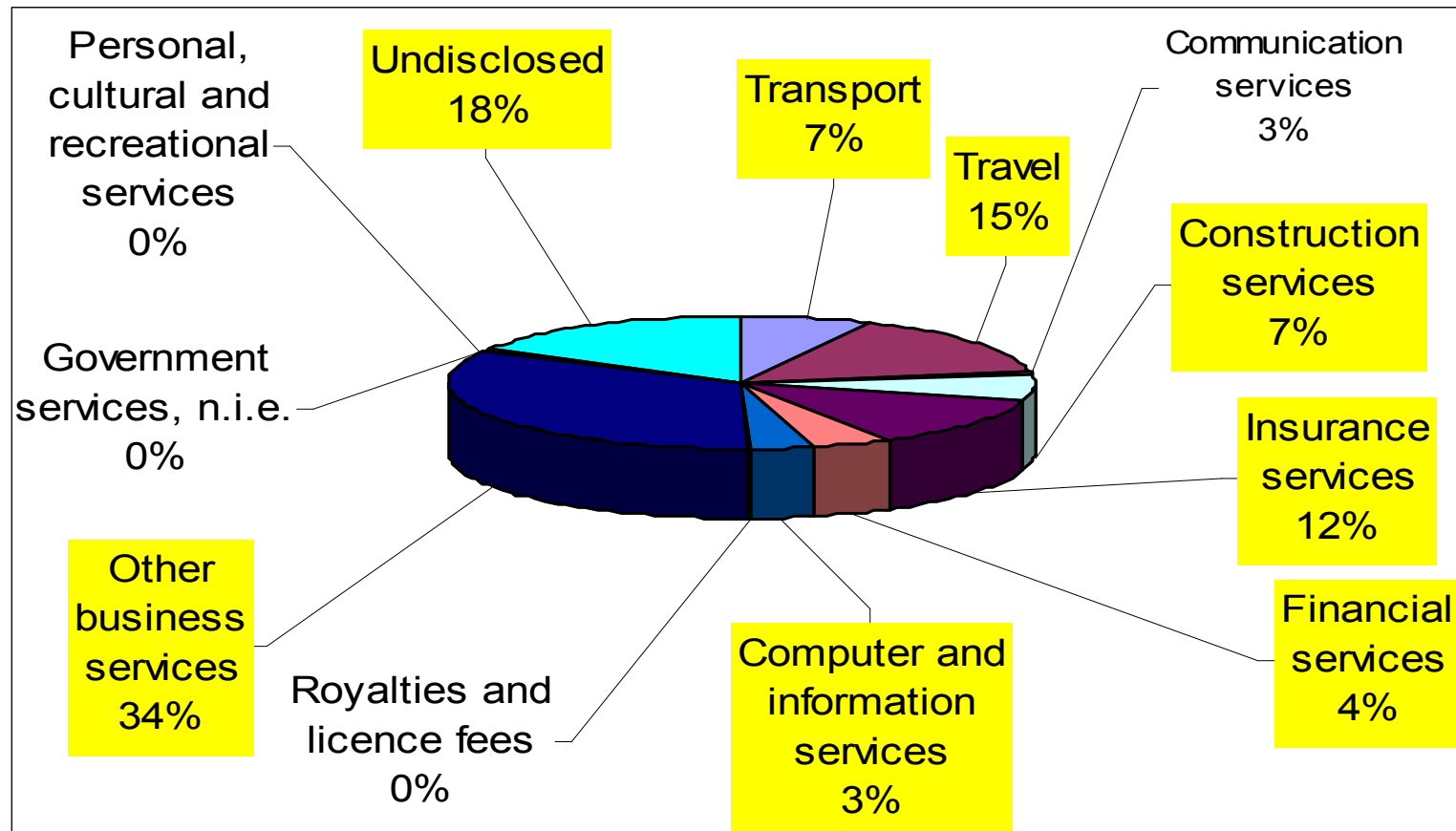
Service categories where CARIFORUM enjoys trade surplus with EU:

- ❑ Travel
- ❑ Transport
- ❑ Communication services
- ❑ Government services

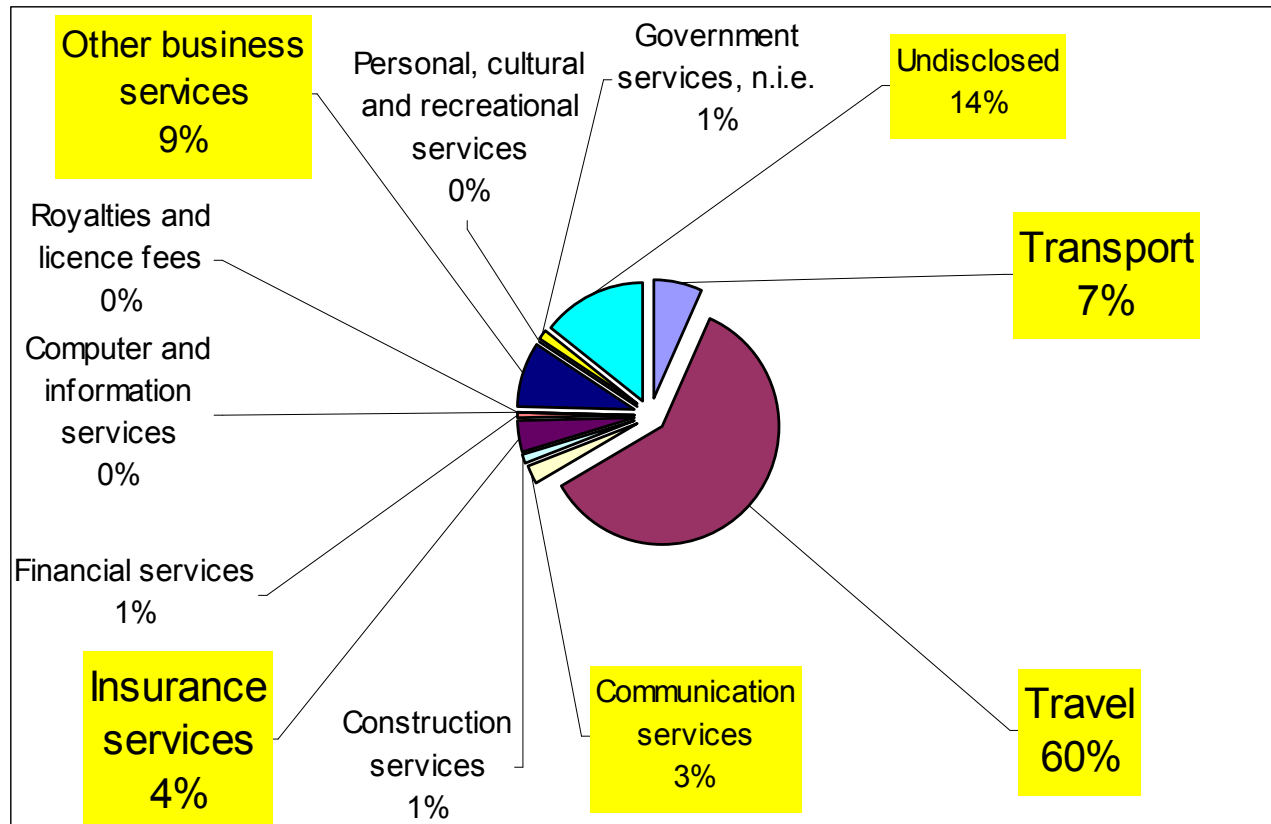
Service categories where EU exports to CARIFORUM exceed imports:

- ❑ Other business services
- ❑ Insurance
- ❑ Financial
- ❑ Construction services
- ❑ Computer & Information services
- ❑ Royalties & licence fees
- ❑ Personal, cultural and recreational services

EU Services Exports to CARIFORUM as % of Total Services Exports (Average 1999-2003)



EU Services Imports from CARIFORUM as % Total Services Imports (Average 1999-2003)



What are “other business services”?

Other business services are a leading services export category from the EU comprising:

- ❑ Merchanting and other trade-related services
- ❑ Other trade-related services
- ❑ Operational leasing services
- ❑ Miscellaneous business, professional, and technical services
- ❑ Legal, accounting, management consulting, and public relations
- ❑ Accounting, auditing, bookkeeping, and tax consulting services
- ❑ Business and management consulting and public relations services
- ❑ Advertising, market research, and public opinion polling
- ❑ Research and development
- ❑ Architectural, engineering, and other technical services
- ❑ Agricultural, mining, and on-site processing services
- ❑ Waste treatment and depollution
- ❑ Agricultural, mining, and other on-site processing services
- ❑ Services between related enterprises

Which services is the EU interested in?

- Professional Services (including mode 4 for Legal, Accounting, Engineering, Management Consultants, Computer Related, Environmental Services)
- Distribution Services
- Business Services
- Communications Services
- Construction & related Engineering
- Environmental Services
- Financial Services
- News Agency
- Tourism & Travel
- Transport
- Ground-handling services related to air-transport services, includes airport management

Trade Defence Instruments and Competition

Keisha-Ann Thompson, Senior
Trade Remedy Analyst,
Anti-dumping and Subsidies
Commission

Trade Defence Instruments

- Anti-dumping Measures
- CVD measures
- Safeguards
- Debate over whether they should be included in RTA or not
- A majority of RTAs, including Customs Unions allow members to impose measures.

Factors that Determine the inclusion of TDIs in RTAs

- Clear domestic political support for unfettered imports into the market
- The promise of deeper integration into a single economic space
- The harmonisation of competition policies and stricter disciplines on subsidies
- If these elements are present, TDIs take less **prominence** (Debate whether deeper integration is the most important determinant of the abolition of TDIs, or they are a consequence of the desire to abolish them)

TDIs in FTAs

- Three tracks
 1. Abolition
 2. Application irrespective of intra-trade and trade with non-members
 3. Abolition in principle
- The EC retains TDI provisions in most of its FTAs
 - Standard features across Agreements
 - AD and CVD adopt WTO principles
 - Safeguards tiered approach (Global, Bilateral, Transitional)
 - Global – adopt WTO principles
 - Safeguard triggers may go beyond standard WTO SG for Bilateral and Transitional

Are TDIs important in an EPA?

- Studies have shown that small states stand to gain little from an EPA without putting in the necessary regulatory frameworks (Trade Remedies, Subsidies, Competition polices, Standards) to manage the increased flow of trade
- Harmonised Competition rules are viewed as alternatives to AD and CV- without them then TDIs are necessary
- Particularly important for CARIFORUM, given its small market size relative to EC export capacity and its undiversified and declining exports, in addition to the levels of EC support
- *Caution – TDIs are insurance policies, but can be a double edged sword (impact of increased duties on consumers and trade diverting effects), so rules need to be crafted to limit potential instances of abuse*

Considerations for the Crafting of TDIs

- WTO consistency – Does Article 24 really apply?
- Extent of deviation from WTO disciplines
- Relevant for AD, CVD and Global SG
- For AD and CVD, if parties to an Agreement have the right to determine obligations, and the rules are by nature discriminatory (product and country specific), is there scope for deviation from WTO principles (S&D)?
- For Global SG, not much room to deviate from WTO principles; but there is some room for asymmetry (WTO jurisprudence)

Evolution – Towards the Inclusion of TDIs in RTA

- In early stages of the EPA negotiations, no real discussions on TDI
- CARIFORUM Draft Text (2006)
- **Principles shaping CARIFORUM demands in AD and CV**
 - Asymmetry
 - No cumulation
 - Higher *de minimis* standards
 - Constructive Remedies (WTO plus)
 - Individual obligations
 - Consultations

Principles shaping CARIFORUM demands - SG

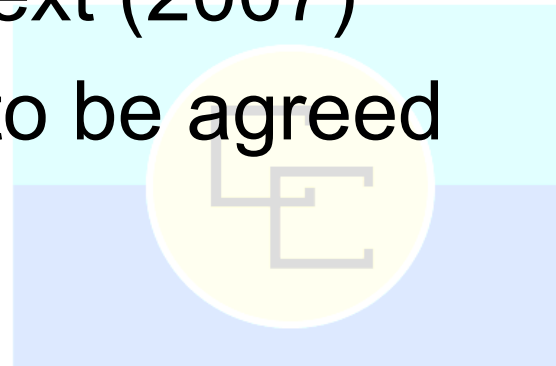
- Three tiered regime (Global, Bilateral, Transitional)
- Parallelism – exclude CARIFORUM from application of SG's
- Asymmetrical application
- Predictability (tariffs vs. quantitative restrictions)
- Consultations - Individual obligations

Assessing Potential Text

- Major reason for EC resistance to S&D proposals – Conflict with non-discrimination rules (EC red line issue)
- Look to see
 - Whether the rules result in any difference in the application of measures than under a WTO regime
 - Does it have provisions that are different from WTO and would make use against CF more difficult ?

Safeguards – Evolution

- CARIFORUM Proposal (2006)
- EC Draft text (2007)
- Final text to be agreed



Main Features and Concerns

- Multilateral Regime - Parallelism and Asymmetry (time bound)
- Bilateral – Easier triggers (controversial – actual versus effective asymmetry?)
- Ensure that WTO principles/ standards are not exceed where they have been adopted (measure be equal to injury)
- Longer time lines for non-application against CARIFORUM

Implications for Regional Coordination regarding TDIs

- ALL MEMBERS have the ability to act INDIVIDUALLY, but all members do not have the necessary legislative framework or competence. This is a major concern since TDIs come into effect once the Agreement enters into force (January 2008?)
- Where imports of a product affect more than one Member State some level of coordination is required. Capacity and resource constraints and the need to avoid double protection, necessitate a regional mechanism.
- Positive - Treaty contemplates a regional TR authority and also has mechanisms to adjust the CET.
- DR as part of CARIFORUM, facilitates level of regional cooperation

A Case for Competition Policy in an EPA?

- Classic arguments
- Less trade distorting alternative to AD and CV
- Anticompetitive actions may impair or nullify trade liberalisation
- Prevent negative spillovers from other countries regimes
- Harmonisation or at a minimum cooperation can reduce compliance costs and uncertainty for business

A Word on Competition

- As with TDIs, most member states do not have established Competition authorities
- Unlike TDIs however, there are plans to establish such a CARICOM Authority to administer regional competition rules, Protocol VIII, Article 30(c)
- What about DR? There are no immediate plans to establish a CARIFORUM Authority, but DR observer status allows some level of participation in and coordination with the CARICOM process
- No currently contemplated CARIFORUM Competition body, so obligations will have to be taken on individually
- In light of these unresolved issues, there should be an appropriate time frame before the implementation of the provisions.

How can Competition rules work in the EPAs?

- The main implication is that CARICOM has to consolidate efforts in these areas,
- The problem is that ongoing work in the context of the CSME is not necessarily coordinated with activity related to the EPAs
- Laws will need to be strengthened especially as regards to confidential treatment of records.

-
- Competition rules can be operational in the EPAs from the perspective of cooperation between authorities rather than through harmonization of rules.
 - There is the need to be careful in crafting provisions since having both TDIs and Competition rules in an Agreement has the potential to be trade restrictive.

CARIFORUM Negotiations – what is left to be accomplished?

- 2/3 of EPA Draft Text has been agreed
- Conclude the respective texts
- Finalise a CARIFORUM market access and service offers
- Finalise investment exclusions
- Schedule of activities

- September 19-21 Special Session of COTED
- 2 TNGs in September
- TWG in early October
- TNG (prospectively the final)
- Initial Agreement - October 31
- Ratification

“ We are behind on the critical core issue of market access and this objective of the series of meetings is that by the time we complete the Ministerial meeting we will have a CARIFORUM market access offer” RNM DG

Concerns/ Challenges

- Challenge is in finding a common position in CARIFORUM, given the diversity of tariff rates and the fiscal implications of lower tariffs, and sensitive products
- Challenge is to make EPAs work for all CARIFORUM (distribute benefits equally)
- Why is there is strong push to meet the deadline and is there a disadvantage?
- Review provisions, have we pursued these enough?

Thank You

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