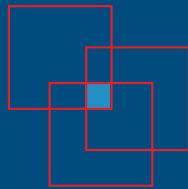




International
Labour
Organization
Office for the
Caribbean



A Guide for Caribbean Employers on the
CARIFORUM-European Community
Economic Partnership Agreement

FOREWORD

The recent financial and economic crisis has demonstrated beyond any doubt that national and regional economies are intimately connected with the global economy through trade (movement of goods), investment (movement of capital) and delivery of services (movement of people).

The policies and agreements that regulate trade and investment have a great impact on the world of work. They affect employment in quantitative terms, quality of jobs and opportunities for creating sustainable enterprises. Consequently, those who seek to promote decent work have no choice but to be actively engaged in discussions about trade and development policies. The capacity of key labour market actors – i.e. workers' and employers' organizations – to participate meaningfully in such discussions therefore becomes a critical issue.

In the Caribbean, the call to "... ensure that decent work is adequately addressed in regional and bilateral trade agreements" was made at the International Labour Organization's (ILO) Tripartite Caribbean Employment Forum (Barbados, October 2006), long before the CARIFORUM Economic Partnership Agreement (EPA) with the European Community (EC) was initialled on 16 December 2007. In the months leading up to the signing of the EPA by the majority of CARIFORUM States on 15 October 2008, Caribbean employers' and workers' organizations intensified their reflection on concerns that had arisen during those negotiations. They sought to define their positions and a course of action that would enable them to maximize the benefits of the EPA and prepare for future trade agreements.

At the 11th ILO Round Table for Caribbean Employers' Organizations (Grenada, April 2008), sponsored by the ILO's Bureau for Employers' Activities (ACT/EMP), representatives of the Caribbean Employers' Confederation expressed concern about the "... risk of the economic and trade issues debate overshadowing the social and labour topics ..." although they were "intricately intertwined". National employers' organizations were urged to "... become more familiar with national legislative and policy documents under review", with regional agreements relating to the CARICOM Single Market and Economy (CSME) and international instruments such as the EPA.

In response to the labour movement's concerns about the potential effects and consequences of the EPA, the Bureau for Workers' Activities (ACTRAV) of the International Labour Office and the ILO's Subregional Office for the Caribbean, in collaboration with the Caribbean Congress of Labour (CCL), convened the Round Table for Caribbean Workers' Organizations in Barbados in June 2008 on the theme "*Globalization, Regional Integration,*

and the Economic Partnership Agreement: The Social and Labour Dimensions”.

In the outcome document, the CCL Declaration and Plan of Action on Regional Integration and the EPA and their Social and Labour Dimensions, labour representatives from the English- and Dutch-speaking Caribbean called for “... meetings with workers and employers to make them aware of the implications of the measures contained in the EPA and to develop with the technical assistance of the ILO and other regional and international institutions, materials on the EPA and other external trade agreements for the purpose of awareness-raising”. They also requested the ILO’s support for “... Caribbean social partners for capacity-building, research and education in the area of external trade agreements”.

In response to the call from the Round Tables, the ILO partnered with the Office of Trade Negotiations of the CARICOM Secretariat to deliver training on trade negotiations to representatives of employers’ and workers’ organizations in all the CARICOM Member States. The training workshops were held in Trinidad and Tobago in September 2009, in Grenada in December 2009 and in the Bahamas in February 2010. Financial and technical support for the workshops was obtained from the ILO’s Bureau for Employers’ Activities (ACT/EMP), the Bureau for Workers’ Activities (ACTRAV) and the Policy Integration Department (INTEGRATION). Resource persons were also provided by the OTN, the CARICOM Development Fund and the Offices of the European Commission based in Barbados and Trinidad and Tobago.

In those training workshops, the ILO made a commitment to establish a website with relevant information, including training materials and other informational booklets on the EPA for employers and workers. The website can be consulted at www.ilocarib.org.tt/trade/

I take the opportunity to thank all the partners, resource persons, and participants who have contributed to the website and these booklets, and express the hope that these resources will assist the employers and trade unionists in the Caribbean to strengthen their role as partners in development, including in the negotiation, implementation and monitoring of trade agreements.

Ana Teresa Romero, Ph.D.
Director, ILO Office for the Caribbean
July 2010

TABLE OF CONTENTS

FOREWORD	i
I INTRODUCTION TO THE ECONOMIC PARTNERSHIP AGREEMENT	1
• What is the Economic Partnership Agreement or EPA?	2
• When was the EPA signed?	2
• Who are the Parties to the EPA?	2
• What are the objectives of the EPA?	2
• What are the building blocks for achieving these aims?	3
• Why was the EPA necessary?	4
• What are the main differences between the EPA and earlier arrangements?	5
• How will the EPA benefit business?	8
• Does the EPA support the promotion of decent work and International Labour Standards?	8
II KEY PROVISIONS	9
TRADE IN GOODS	10
• Will CARIFORUM exports into the European markets attract tariffs?	10
• Will all EC imports be able to enter CARIFORUM markets duty-free from the date of implementation of the Agreement?	10
• What will be the treatment of products of interest to the region like sugar, rice and bananas?	10
• How does the product I produce qualify for entry into Europe?	11
• Does this apply to goods coming from Europe as well?	12
• What if imports from Europe threaten the industry in the region?	12
• What is the Most Favoured Nation Clause?	12

TRADE IN SERVICES AND INVESTMENT	13
• How are services traded?	13
• What services has the EC liberalized?	13
• How can service providers in the Caribbean take advantage of new opportunities in Europe?	16
• What has CARIFORUM liberalized?	16
• What are the commitments by Europe with respect to the temporary movement of people to provide services?	18
• Is there a transition period for services?	18
• Does the Most Favoured Nation (MFN) Clause apply to trade in services as well?	19
• Does the EPA include measures to promote investment?	19
DEVELOPMENT COOPERATION	20
• How is development cooperation intended to work?	20
• What are the priorities for development cooperation in the EPA?	20
• How will development cooperation be funded?	20
• How can the funding be accessed?	21
SOCIAL ASPECTS	21
• How are social issues addressed in the EPA?	21
• How is consultation organized among the EC and CARIFORUM States?	22
III MONITORING OF THE EPA	23
• Can the EPA be revised?	24
• How should monitoring of the implementation be conducted?	24
• How can employers play a role in monitoring?	24
• What is to happen if things do not work out as intended?	26
• How exactly would disputes be settled?	26



Introduction to the Economic Partnership Agreement

What is the Economic Partnership Agreement or EPA?

The Economic Partnership Agreement (EPA) is a trade and development agreement signed between the CARIFORUM States (Caribbean Community (CARICOM) Member States and the Dominican Republic) and the European Community (EC)* and its Member States.

When was the EPA signed?

The EPA was signed by the EC and the majority of the CARIFORUM Member States on 15 October 2008. It was created through an intense, three-year negotiating process which culminated on 16 December 2007.

Who are the Parties to the EPA?

The Parties to the EPA are the 15 States of CARIFORUM (14 CARICOM Member States and the Dominican Republic) and the European Community and its 27 Member States. The EC itself is also a Party to the Agreement while CARIFORUM is not since CARICOM did not sign on behalf of the CARIFORUM.

CARIFORUM - 15 Member States

Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago.

EUROPEAN COMMUNITY - 27 Member States

Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom.

What are the objectives of the EPA?

The EPA has been referred to as a trade partnership for sustainable development. While it is designed to enhance trade between Europe and CARIFORUM by reducing trade barriers, the EPA also has developmental components.

* The EPA was signed before the entry into force of the Treaty of Lisbon on 1 December 2009. The Treaty states that “the (European) Union shall replace and succeed the European Community” hence the use of the term ‘European Community’ with specific reference to the provisions of, and Parties to, the EPA.

These include improving CARIFORUM's capacity to trade competitively as well as offering several avenues for development cooperation.

The objectives of the EPA are set out in Article 1 of the Agreement. In summary, the EPA is expected to:

- contribute to the reduction and eventual eradication of poverty;
- promote regional integration, economic cooperation and good governance;
- promote the integration of the CARIFORUM States into the world economy;
- improve the CARIFORUM States' capacity in trade policy and trade-related issues;
- support the conditions for increasing investment and private sector initiative and enhancing supply capacity, competitiveness and economic growth; and
- strengthen the existing relations between the Parties to the EPA.

The Parties to the EPA are committed to achieve these results in ways which, in the words of the EPA, “take into account the human, cultural, economic, social, health and environmental best interests of their respective populations and of future generations”.

What are the building blocks for achieving these aims?

One important means is the promotion of regional integration in the Caribbean. This would provide a larger market for Caribbean producers and would allow businesses to pool their resources. The EPA, however, insists that it is for Caribbean countries to determine how fast and in what ways they want to proceed along the route of deeper integration.

Another important means is through development cooperation between the Caribbean and Europe, which takes both financial and non-financial forms and includes technical assistance.

The EPA is also intended to help the Caribbean improve its capacity to trade. In trade terms, the EPA takes the form of a free-trade area between the EC and CARIFORUM. The aim is to integrate and encourage regional cooperation not just between the EC and CARIFORUM, but between the CARIFORUM countries themselves.

This would assist in stimulating the integration of CARIFORUM States into the world economy.

Why was the EPA necessary?

There were several reasons why Caribbean countries entered into the negotiations for an EPA. One of the main reasons was to ensure that they could continue to enjoy certain trade benefits with Europe. For example, some of their products sold in Europe would be exempt from, or pay lower customs duties than the same product coming from another country. Such preferential treatment was important if Caribbean industries were to compete successfully in the European market. These benefits originated in the old colonial relationship which some Caribbean countries (as well as some countries in Africa and in the Pacific) had with their former rulers, and were continued under various agreements, such as the Lomé Conventions and the Cotonou Partnership Agreement of 2000.

These benefits were threatened by the rules of the World Trade Organization (WTO), formed in 1995, which introduced the principle of non-discrimination in world trade. This required that developed countries - such as the countries of Europe - give equal treatment to all countries, unless an exception could be seen as acceptable to the WTO.



The only relevant exception for the Caribbean was the conclusion of an agreement between the Caribbean countries and the European countries which met certain criteria laid down by the WTO. The EPA is therefore compatible with WTO rules, by allowing “progressive liberalization” to a group of countries which otherwise might not have been able to compete effectively in world trade. The EPA allows for special and differential treatment to countries within the Agreement.

What are the main differences between the EPA and earlier arrangements?

Reciprocal trade. The major difference between the EPA and earlier agreements is the application of the principle of reciprocity. Previous agreements provided for one-way access from the Caribbean into the markets of Europe. Now Europe will have some access to the markets of the Caribbean as well.

Trade in Services, Investment, and Intellectual Property Protection.

The EPA includes, for the first time, commitments of access for service providers and investors in goods and services. It also makes allowances for intellectual property and investment protection. Previous trading arrangements included trade in goods only. Trade in services and investment is again on a reciprocal basis and responds to the nature of Caribbean economies.



THE CARIFORUM-EC EPA AT A GLANCE

Part I: Trade Partnership for Sustainable Development

Part II: Trade and Trade-Related Matters

Title I: Trade in Goods

Chapter 1: Customs Duties

Chapter 2: Trade Defence Instruments

Chapter 3: Non-Tariff Measures

Chapter 4: Customs and Trade Facilitation

Chapter 5: Agriculture and Fisheries

Chapter 6: Technical Barriers to Trade

Chapter 7: Sanitary and Phytosanitary Measures

Title II: Investment, Trade in Services and E-Commerce

Chapter 1: General Provisions

Chapter 2: Commercial Presence

Chapter 3: Cross-Border Supply of Services

Chapter 4: Temporary Presence of Natural
Persons for Business Purpose

Chapter 5: Regulatory Framework

Chapter 6: Electronic Commerce

Chapter 7: Cooperation

Title III: Current Payments and Capital Movement

Title IV: Trade-Related Issues

Chapter 1: Competition

Chapter 2: Innovation and Intellectual Property

Chapter 3: Public Procurement

Chapter 4: Environment

Chapter 5: Social Aspects

Chapter 6: Protection of Personal Data

Part III: Dispute Avoidance and Settlement

Chapter 1: Consultations and Mediation

Chapter 2: Dispute Settlement Procedures

Part IV: General Exceptions

Part V: Institutional Provisions

Part VI: General and Final Provisions

THE CARIFORUM-EC EPA AT A GLANCE

Annexes

- Annex I: Export Duties
- Annex II: Customs Duties on Products Originating in CARIFORUM States
- Annex III: Customs Duties on Products Originating in the EC Party
- Annex IV: Lists of Commitments on Investment and Trade in Services
- Annex IV A: List of Commitments on Commercial Presence
- Annex IV B: List of Commitments on Cross-Border Supply of Services
- Annex IV C: Reservations on Key Personnel and Graduate Trainees
- Annex IV D: Reservations on Contractual Services Suppliers and Independent Professionals
- Annex IV E: List of Commitments on Investment (Commercial Presence) in Economic Activities other than Services Sectors
- Annex IV F: List of Commitments in Services Sectors
- Annex V: Enquiry Points
- Annex VI: Covered Procurements
- Annex VII: Means of Publication

Protocols

- Protocol I: Concerning the Definition of the Concept of “Originating Products” and Methods of Administrative Cooperation
- Protocol II: On Mutual Administrative Assistance in Customs Matters
- Protocol III: On Cultural Cooperation

Regional preference clause. The EPA's regional preference clause requires that CARIFORUM countries not give to the EC access to goods and services that they do not provide to each other. For example, CARICOM countries can also have access to markets in the Dominican Republic.

How will the EPA benefit business?

The negotiation of a WTO-compatible agreement with Europe stabilized the region's trading relationship with Europe. Businesses can therefore pursue their trading interests on a firm and predictable basis. Businesses can expect to benefit from new export and business opportunities in Europe and the Dominican Republic, including new access to the services sector, as well as opportunities for investment promotion. These opportunities represent avenues for improving their international competitiveness.

Does the EPA support the promotion of decent work and International Labour Standards?

The Parties to the EPA have recognized the beneficial effects that core labour standards and decent work can have on economic efficiency, innovation and productivity. There is a dedicated chapter on Social Aspects, where they have reaffirmed their commitment to internationally-recognized core labour standards, as defined by the relevant ILO Conventions, and in particular those relating to the freedom of association and the right to collective bargaining, the abolition of forced labour, and the worst forms of child labour and non-discrimination in respect of employment.

In addition, CARIFORUM and the EC have reaffirmed their commitment to the 2006 United Nations Economic and Social Council (ECOSOC) Declaration on Full Employment and Decent Work, promoting the development of trade in a way that leads to full and productive employment and decent work for all.



Key Provisions

TRADE IN GOODS

Issues related to trade in goods are highlighted in Part II, Title I of the EPA. This section outlines how CARIFORUM and the European Community are to cooperate to remove barriers to allow trade between them and it sets out issues related to trade development.

Will CARIFORUM exports into the European markets attract tariffs?

There is immediate duty-free and quota-free access for all CARIFORUM goods entering the European market, with the exception of rice and sugar. The situation with respect to rum is different as the EC is not in favour of allowing any further preferential treatment for rum. This issue is still under discussion.

Will all EC imports be able to enter CARIFORUM markets duty-free from the date of implementation of the Agreement?

No. Some 493 items or 13.1 per cent of imports are excluded from liberalization. These are mainly agricultural and processed agricultural products, including meat and fishery products, beverages and tobacco, some chemicals, paints, soaps, apparel, iron and steel products, furniture, mattresses and other industrial products.

There is a 25-year period during which import duties will be eliminated. At the end of the 25-year period (2033), CARIFORUM would have liberalized 86.9 per cent of its products.

What will be the treatment of products of interest to the region like sugar, rice and bananas?

Between the signing of the EPA in October 2008 and September 2009, sugar from the Caribbean entered Europe under the same terms and conditions as before. Quotas were increased by 60,000 tons and shortfalls from one exporting country could be allocated to another. Since September 2009, sugar from the Caribbean has been entering Europe free of quotas or duties.

Rice entering Europe will be free of quotas or duties two years after the implementation of the Agreement. In the interim, tariffs will be eliminated and the quota will be increased progressively.

Banana exports are duty free and quota free with immediate effect. The Joint Declaration on Bananas commits Europe to provide funding to allow the industry to adjust, diversify and address the social impacts of the new trading arrangement. In December 2009, Europe agreed with non-ACP (African, Caribbean and Pacific) banana exporters to reduce the duties applicable on their exports to Europe.

How does the product I produce qualify for entry into Europe?

Rules of origin determine whether or not a product qualifies for preferential treatment. The rules of origin outline the standards relating to the production or manufacture of a product, how such goods are to reach the importing country and the procedures to verify that such goods qualify for entry. Largely, the same rules that applied to exports to Europe under the Cotonou Agreement apply under the EPA. Relaxation of the rules affects products such as biscuits and other bakery products, jams and jellies, fruit juices and other beverages, cigarettes, garments and air conditioning units. The detailed rules of origin can be found in Protocol I of the Agreement.



Does this apply to goods coming from Europe as well?

Yes, the rules of origin apply to goods from Europe as well. It is important to note that the rules of origin are to be reviewed within the first five years of the implementation of the Agreement.

What if imports from Europe threaten the industry in the region?

In these circumstances, a CARIFORUM country can apply safeguard measures in accordance with Article 25 of the EPA. The country concerned can either:

- suspend future tariff reductions;
- increase the customs duty on the product to the level applied to all WTO members; or
- introduce tariff quotas on the product in question.

Safeguard measures instituted by a CARIFORUM country can apply for up to four years in the first instance and extended for an additional four years. The same period is applicable where the EC applies a safeguard on exports to one of its outermost regions. Normally though, an EC safeguard measure can apply for up to two years in the first instance and extended for an additional two years.

What is the Most Favoured Nation Clause?

If CARIFORUM negotiates a trading agreement with a major trading economy and provides better treatment than it has stipulated to the EC in the EPA, then CARIFORUM and the EC are required to enter into consultation to “decide whether the concerned Signatory CARIFORUM State may deny the more favourable treatment contained in the free trade agreement to the EC Party”.

A major trading economy is defined as any developed country or any other country accounting for more than one per cent of world trade in the year before the agreement is enforced or any group of countries that account for more than 1.5 per cent of world trade in the year before the agreement is enforced.

TRADE IN SERVICES AND INVESTMENT

Part II, Title II of the EPA outlines measures to develop and improve the CARIFORUM services sector and to facilitate and attract investment within CARIFORUM.

How are services traded?

The World Trade Organization (WTO) defines trade in services under four categories or modes. Each mode defines how the service is supplied. EPA provisions concerning trade in services are distinguished according to these modes.

MODES OF SUPPLY WHEN TRADING IN SERVICES

- Mode 1 – Cross-border supply where neither the consumer nor the provider crosses a border, e.g. supply via telecommunications or mail
- Mode 2 – Consumption abroad where the consumer purchases services while based in a foreign market, e.g. tourism
- Mode 3 – Commercial presence where a company establishes a presence in a foreign market in order to sell services
- Mode 4 – Presence of natural persons when an individual providing services travels temporarily to a foreign market to provide services in that market

What services has the EC liberalized?

Cross-border supply services (Modes 1 and 2)

The EC has liberalized 94 per cent of its services sectors, with the exception of audiovisual services and services normally provided exclusively by the government.

Commercial presence (Mode 3)

All CARIFORUM firms - with the exception of those involved in audiovisual, maritime and air transport, arms and ammunition, and nuclear materials - are allowed to establish operations in the EC.

Presence of natural persons (Mode 4)

New market access has been granted in 29 sectors for contractual service suppliers and 11 sectors for independent professionals.

A significant new area of market access is the Entertainment Services Sector, which covers live performances and activities of artistes in

**SERVICES SECTORS LIBERALIZED BY THE EUROPEAN COMMUNITY
FOR TEMPORARY ENTRY BY CARIFORUM CONTRACTUAL
SERVICE SUPPLIERS (ARTICLE 83, PARAGRAPH 2)**

1. Accounting and bookkeeping services
2. Advertising services
3. Architectural services
4. Chef de cuisine services
5. Computer and related services
6. Engineering services
7. Entertainment services other than audiovisual services
8. Environmental services
9. Fashion model services
10. Higher education services
(only privately-funded services)
11. Integrated engineering services
12. Legal advisory services in respect of international
public law and foreign law (i.e. non-EU law)
13. Maintenance and repair of equipment, including
transportation equipment, notably in the context of an
after-sales or after-lease services contract
14. Management consulting services
15. Market research and opinion polling
16. Medical and dental services
17. Midwives services
18. Related scientific and technical consulting services
19. Research and development services
20. Services provided by nurses, physiotherapists and
paramedical personnel
21. Services related to management consulting
22. Site investigation work
23. Taxation advisory services
24. Technical testing and analysis services
25. Tourist guides services
26. Translation and interpretation services
27. Travel agencies and tour operators' services
28. Urban planning and landscape architecture services
29. Veterinary services

music, dance, theatre, visual arts, sculptors, authors, and poets. Protocol III on Cultural Cooperation provides for greater cooperation on all cultural fronts to facilitate new linkages between EC and CARIFORUM cultural service providers.

The entire services schedules of CARIFORUM and the EC can be found in Annex IV of the EPA.

**SERVICES SECTORS LIBERALIZED BY THE EUROPEAN COMMUNITY
FOR TEMPORARY ENTRY BY INDEPENDENT PROFESSIONALS
(SELF-EMPLOYED PERSONS) (ARTICLE 83, PARAGRAPH 3)**

Architectural services Computer and related services
Engineering services Integrated engineering services
Legal advisory services (non-EU law)
Management consulting services
Market research and opinion polling
Research and development services
Services related to management consulting
Translation and interpretation services
Urban planning and landscape architecture services



How can service providers in the Caribbean take advantage of new opportunities in Europe?

Access information. Firms interested in trading with Europe firstly have to determine what they can offer to European consumers and what differentiates their service from what is currently being offered. They would need to recognize the various modes through which they can trade and identify the best mode. For example, they can provide services to Europeans visiting the Caribbean or to European firms located in the Caribbean or alternatively to European firms by electronic means. National services coalitions, business support organizations, and Ministries of Trade and Industry can assist in providing information, support and linkages for trading in Europe.

Establish partnerships. Firms interested in trade in services should explore every opportunity to establish partnerships or other types of relationships with firms in Europe. It is always beneficial to seek to enter a new market based on a joint relationship with a firm that is already in the market, through strategic alliances, for example. Such partnerships should also be explored in the Caribbean.

Promote competence. Opportunities to demonstrate and promote competence to prospective European consumers or partners should be explored. This could involve participation in conferences, seminars, trade fairs or trade missions.

Prepare for adversity. Firms must be prepared to deal with hurdles that are placed in front of them and be committed to pursuing their interests in providing services to European consumers.

What has CARIFORUM liberalized?

CARIFORUM has opened 65-75 per cent of their markets, focusing on sectors with the greatest impact on development, and where investment and transfer of technology are required.

The main sectors that most CARIFORUM States have liberalized under the EPA are:

- Business services (accounting, architecture, engineering, etc)
- Computer and computer-related services
- Research and development
- Environmental services
- Management consultancy
- Maritime transport
- Entertainment
- Tourism

**CATEGORIES OF PERSONS AND SPECIFIC CRITERIA
FOR TEMPORARY BUSINESS ACTIVITY IN THE EUROPEAN COMMUNITY**

Contractual Services Suppliers	Independent Professionals	Key Personnel	Graduate Trainees	Business Services Sellers
<p>Persons having at least three years professional experience and employed for at least 1 year by a company and based in the other Party and which does not have a commercial presence in the other Party.</p> <p>The company must have a contract to provide services in the other Party which requires the presence of its employees for a temporary period of time.</p> <p>With the exception of fashion model services and chef de cuisine services, they must have a university degree or equivalent qualification and professional qualifications where these are required.</p>	<p>Self-employed service suppliers with at least 6 years professional experience, without a commercial presence in the other Party who has a contract of not more than 12 months to provide services in the other Party which requires their presence for a temporary period of time.</p> <p>They must have a university degree or equivalent qualification and professional qualifications where this is required.</p>	<p>Business visitors responsible for setting up a business of intra-corporate transferees (Managers or specialists)</p>	<p>Persons employed for more than one year with a university degree, persons who are temporarily transferred to the parent company or to a commercial presence for career development or to receive training in business techniques or methods.</p>	<p>Persons who are representatives of a services supplier and need to enter a market to negotiate the sale of services or enter into agreements to sell services for the services supplier.</p>
<p>Not more than 6 months or 25 weeks (Luxembourg) in any twelve-month period.</p>	<p>Not more than 6 months or 25 weeks (Luxembourg) in any twelve-month period.</p>	<p>Up to 3 years for intra-corporate transferees.</p> <p>90 days in any twelve-month period for business visitors.</p>	<p>1 year.</p>	<p>90 days in any twelve-month period.</p>

The commitments made by CARIFORUM adequately reflect the principle of asymmetry. Not only has the region liberalized fewer sectors but there are limitations in all of the four ways of trading services. In particular, very few new commitments on the movement of persons to provide services on a temporary basis have been made.

Nonetheless, the fact that CARIFORUM has seen it fit to commit to a services agreement with the largest services economy in the world does open up the probability of new competition from Europe within the Caribbean. It however demonstrates that the Caribbean needs enough time for its sectors to adjust before full liberalization is achieved.

What are the commitments by Europe with respect to the temporary movement of people to provide services?

The European Community has committed to provide access to persons of various categories to engage in temporary business activity such as networking and making business contacts, research, marketing and training. The table on the previous page indicates the categories of persons and specific criteria for entry.

Is there a transition period for services?

Commitments made by CARIFORUM and the EC for cross-border supply of services apply from the date of implementation of the



Agreement unless the Member State concerned has specifically indicated a delayed commitment in their schedule of commitments.

Does the Most Favoured Nation Clause (MFN) apply to trade in services as well?

Yes, it does. Article 79 provides for the application of the MFN to cross-border supply of services covered by the Chapter. As such it applies to services that are provided:

- from the territory of a Party into the territory of the other Party (Mode 1); and
- in the territory of a Party to the service consumer of the other Party (Mode 2).

Importantly, it does not apply to the provisions of Chapter 4 (Temporary Presence of a Natural Person for Business Purpose).

Does the EPA include measures to promote investment?

Yes, it does. The EC and CARIFORUM have made commitments on the commercial presence in goods and services. These would guarantee access to and national treatment in each other's market. Limitations are listed in the respective commitments, which can be found in Annex IV A of the EPA.



DEVELOPMENT COOPERATION

How is development cooperation intended to work?

This takes two forms - financial and non-financial. The financial commitment from Europe is contained in a Joint Declaration on Development Cooperation which indicates specified sums of money as well as other sources of finance. Non-financial development cooperation relates to various forms of technical assistance.

What are the priorities for development cooperation in the EPA?

Development cooperation priorities have been set out in Article 8 of the Agreement. These are supposed to be supplemented by specific areas of cooperation expressed in the substantive Chapters of the EPA.

The listed priorities are:

- build human, legal and institutional capacity in the CARIFORUM States so as to facilitate their ability to comply with the commitments set out in this Agreement;
- strengthen tax administration and improve the collection of tax revenues to increase income from indirect taxation;
- promote private sector and enterprise development, in particular, small economic operators, and enhance the international competitiveness of CARIFORUM firms and diversification of the CARIFORUM economies;
- diversify CARIFORUM exports of goods and services through new investment and the development of new sectors;
- enhance the technological and research capabilities of the CARIFORUM States to develop and comply with internationally-recognized sanitary and phytosanitary measures and technical standards, as well as internationally-recognized labour and environmental standards;
- develop CARIFORUM innovation systems, including the development of technological capacity; and
- develop the necessary infrastructure in CARIFORUM States for the conduct of trade.

How will development cooperation be funded?

Through the Joint Declaration on Development Cooperation, financial assistance will be provided under the 10th European Development Fund (EDF) Caribbean Regional Indicative Programme (CRIP). The sum of 165 million euros has been allocated to the Caribbean region. Existing funds from National and Regional Indicative Programmes are still available.

The European Union (EU) will also provide 1 billion euros under the WTO Aid for Trade Programme, however, this will be allocated to the entire African, Caribbean and Pacific region.

How can the funding be accessed?

Employers can make funding requests to their national governments and directly to agencies such as PRO€INVEST which is an EU-ACP partnership programme developed and undertaken by the European Commission on behalf of the ACP countries. PRO€INVEST's objective is to promote investment and technology flows to enterprises operating within key sectors in ACP countries.

SOCIAL ASPECTS

How are social issues addressed in the EPA?

Social aspects are addressed in several areas of the EPA. Chapter 5 of the EPA is devoted to such issues. This Chapter (Articles 191-196) encompasses social and labour aspects, includes a reaffirmation of the commitment to internationally-recognized core labour standards, and cites in particular:

- freedom of association and the right to collective bargaining;
- the abolition of forced labour;
- the elimination of the worst forms of child labour; and
- non-discrimination with respect to employment.



Paragraph 3 of Article 191 recognizes the beneficial effects that core labour standards and decent work can have on economic efficiency, innovation and productivity. It also highlights the value of greater policy coherence between trade policies, and employment and social policies.

Article 192 recognizes the right of States to establish their own social regulations and labour standards so as to ensure high levels of such standards, consistent with internationally-recognized rights set out in Article 191.

Article 193 requires States to maintain the levels of protection in domestic social and labour laws and standards. Article 194 reaffirms the importance of developing social cohesion policies and measures to promote decent work at the regional level in order to address social challenges and to promote the sustainable development of trade.

How is consultation organized among the EC and CARIFORUM States?

Article 195 promotes consultation among the Parties and with the CARIFORUM-EC Consultative Committee on the social and labour issues covered in Articles 191-194. If required, a Committee of Experts can be established if matters are not resolved through consultations.

In addition, it raises the possibility of the ILO providing advice on the best practice related to social issues, “the use of effective policy tools for addressing trade-related social challenges, such as labour market adjustment, and the identification of any obstacles that may prevent the effective implementation of core labour standards”.

Article 196 lists some areas of possible development cooperation among the Parties, such as:

- formulating and strengthening labour laws and standards, as well as mechanisms for social dialogue;
- the means of promoting the Decent Work Agenda;
- labour market adjustment policies;
- raising awareness of health and safety responsibilities, workers’ rights and employers’ responsibilities; and
- the enforcement of national labour laws and regulations.



Monitoring of the EPA

Can the EPA be revised?

There is a clause providing for a review of the entire EPA within five years of implementation. That apart, the EPA provides several opportunities for review or revision. For example:

- tariff schedules can be reviewed in the event of serious difficulties (Article 16);
- rules of origin are to be reviewed within five years of the implementation of the EPA (Article 10);
- the Chapter on Public Procurement will be reviewed every three years (Article 181);
- the entire Agreement can be revised based on the experience of implementation or to bring overseas countries and territories associated with the EC into the Agreement (Article 246);
- when new members join the EU (Article 247);
- the Trade and Development Committee is to review periodically the EPA's development cooperation priorities and annually review how the Agreement is being implemented (Article 230);
- investment provisions could be revised after the review that must be conducted within three years of the entry into force (Article 74).

How should monitoring of the implementation be conducted?

Individual Member States have established EPA Implementation Committees. CARIFORUM will also monitor implementation. Within the ambit of the Agreement, the Trade and Development Committee will be the primary organ to ensure the full implementation of the EPA. In addition, the Parties recognize the importance of assessing and monitoring the implementation of the Agreement on decent work and other areas of sustainable development, including through consultation among the Parties, and with the CARIFORUM-EC Consultative Committee (Article 195).

How can employers play a role in monitoring?

Employers with significant existing trading interests with Europe, should set up mechanisms within their companies to ensure that they are fully apprised of implementation issues and updates. They should also work within their business and sectoral associations to establish

similar means of monitoring. This latter mechanism should interact with national implementation committees or other national organs to ensure the effective use of development cooperation to make the necessary adjustments and improve the private sector's capability to compete.

Employers' organizations can set up their own monitoring bodies or be supportive of tripartite efforts to monitor the effects of the EPA on employers and workers. This information should be sent to government agencies involved in implementation and in the allocation of development funding to mitigate the negative impacts.

The United Nations Economic Commission for Latin America and the Caribbean (UNECLAC) has put the monitoring of the impact of implementation of the EPA on its work programme for 2012 – 2013. In this exercise, UNECLAC is committed to cooperation with the ILO as well as with employers' and workers' organizations in the CARIFORUM States.



What is to happen if things do not work out as intended?

There are structures in place to deal with unforeseen circumstances which may arise during implementation of the EPA. There are institutions and opportunities for monitoring, review and revision. However, should there be any disputes arising from the interpretation and application of the Agreement, the Dispute Settlement mechanism can be activated.

How exactly would disputes be settled?

The EPA is a partnership agreement, and is governed, like all international treaties, by the Vienna Convention on the Law of Treaties, which requires parties to act in good faith. If there is a disagreement, the first step is to hold consultations with a view to resolving the dispute. If that does not work, the services of a mediator may be engaged. If mediation does not resolve the matter, then there can be recourse to binding arbitration. The dispute settlement process is a government-to-government matter; a private party which feels aggrieved would have to persuade its government officials to take up the matter.



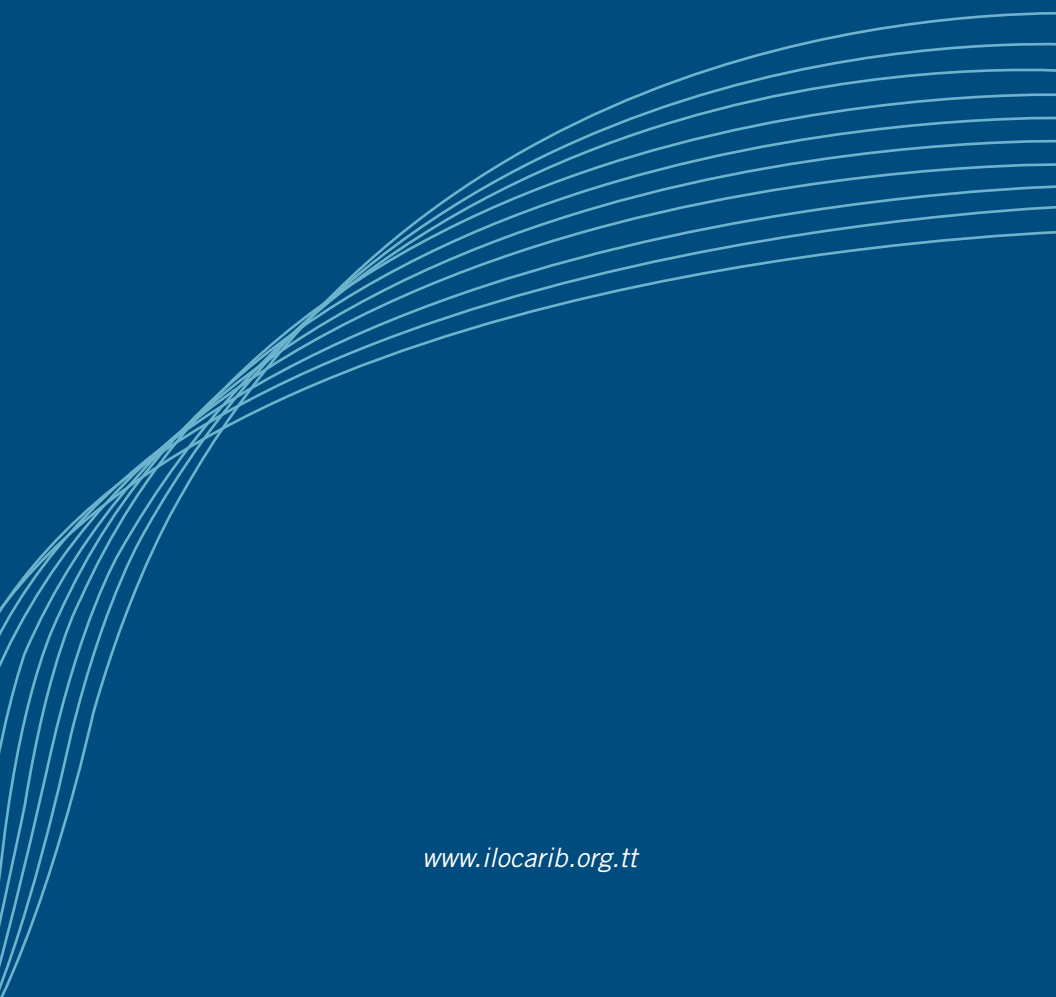
*For further information on the EPA,
including the full text of the Agreement,
please visit the website of the*

*Office of Trade Negotiations, CARICOM Secretariat at
www.crnw.org*

*ILO Decent Work Team and Office for the Caribbean at
www.ilocarib.org.tt/trade*

or

please contact the Ministry responsible for Trade in your country.



www.ilocarib.org.tt

