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Asymmetric bargaining and development trade-offs in the CARIFORUM-European Union Economic Partnership Agreement

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ABSTRACT

On 15 October 2008, CARIFORUM became the first region among the African, Caribbean and Pacific (ACP) group of countries to sign a ‘full’ Economic Partnership Agreement (EPA) with the European Union (EU). Although the EPA process has generated widespread critical commentary, few analysts have stopped to consider the motives of individual ACP countries and regions in their approach to the talks. In this article we consider the question of motives in relation to the CARIFORUM-EU EPA. Specifically, it asks why did CARIFORUM feel it necessary or desirable to sign a ‘full’ EPA, containing numerous provisions not actually mandated by the WTO, when the rest of the ACP was content to sign far less ambitious ‘goods only’ interim agreements? In order to address this question, the article goes beyond the extant EU-ACP trade literature to build on wider international political economy (IPE) scholarship, which has analysed the actions

of developing countries in relation to a whole range of ‘WTO-plus’ North–South regional and bilateral FTAs. On this basis, the article stands back from the complex details of the agreement to analyse its wider significance, especially in terms of the presumed trade-off between the immediate economic benefits of improved and more secure market access, against the longer term costs of sacrificing the regulatory autonomy, or policy space, deemed necessary to pursue the type of trade and industrial policies deployed successfully in the past by both developed and (some) developing countries. Put simply, the article seeks to ascertain why ultimately CARIFORUM signed an agreement, what it gained from the negotiations and at what cost.

KEYWORDS:

African, Caribbean and Pacific group | asymmetric bargaining; CARIFORUM | economic partnership agreements | European Union | policy space

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Notes

1. The Caribbean Forum of African, Caribbean and Pacific states (CARIFORUM) was established in 1992 to facilitate cooperation between the English-speaking Caribbean Community (CARICOM) and the Dominican Republic and Haiti, following the accession of the latter to the Lomé Convention. Although 13 of the 15 members of CARIFORUM –

Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, and Trinidad and Tobago – signed EPA on 15 October, Guyana initially refused to sign only to do so five days later on 20 October. Haiti, which qualifies for EU unilateral trade preferences as a Least-Developed Country (LDC), signed on 11 December 2009.

2. Cotonou Partnership Agreement, Article 36.1.

3. The rest of the article draws extensively on interviews and background briefings with CRNM staff, government officials, representatives of private sector and other relevant non-governmental organisations, conducted in the Caribbean in January–February 2009. It also draws on a series of follow-up interviews conducted by Matt Bishop with EU and Caribbean officials in Brussels and Geneva in February 2009. I would like to thank Matt for very kindly giving me access to the transcripts from these interviews. At the request of interviewees, all subsequent references made to the interviews are anonymous.

4. World Trade Organisation (WTO), 'Regional trade agreements', <http://wto.org/English/tratop_e/region_e/region_e.htm> (accessed 16 June 2009).

5. Many of these coalitions are cross-cutting in membership and policy objectives. In terms of the issues explored in this article, it is notable that through membership in these coalitions Chile, Colombia, Costa Rica, El Salvador, Guatemala, Mexico and Peru have all fought against the Singapore issues while simultaneously agreeing to such measures in FTAs with the US. Likewise, members of CARICOM at various points in the run up to the Cancun Ministerial actively resisted the inclusion of many of the same issues within the Doha Round, which subsequently ended up in the final text of the CARIFORUM-EU EPA.

6. This happened, for example, in December 2001 when a deal struck between the G. W. Bush administration and Congressional leaders regarding the reinstatement of 'fast track' or Trade Promotion Authority (TPA) led to the removal of important flexibilities in the 'rules of origin' provisions contained in the CBTPA. The CBTPA had originally stipulated that the 'cutting and dyeing' of garments produced in the Caribbean would be eligible for duty-free treatment; after intensive lobby by the domestically oriented textile caucus in Congress, however, these provisions were removed from the revised version of the programme. Some estimates suggest that these activities would have been responsible for as much as 75 per cent of the value added in the Caribbean,

hence political intervention had denied the region a key development opportunity. See, for more details, Heron (2004: 125–26).

7. In the case of the 1975 Sugar Protocol (SP), for example, the ACP benefited from a complex system of supply-side management, domestic-price support, export subsidies and import protection, which created guaranteed export prices for eligible sugar producers approximately three-times higher than average world market prices. On the reform of the SP, see ftn. 12.

8. As John Ravenhill (2004: 120) explains, the main rationale for the creation of the ACP was to find a means of accommodating Britain's former colonies but to somehow exclude the Asian Commonwealth, because the economies of India and Pakistan, even though classified as low-income, were comparatively large and sufficiently diversified to be perceived as a threat by import-competing interests in Europe. The happy coincidence of geography and development thus provided a solution, on the grounds that the economies of Africa, the Pacific and the Caribbean were of a ‘comparable economic structure’ and unlike the larger and more diversified economies of South Asia. The demarcation was hardly ideal, however, since it led to the bizarre situation where the Bahamas was included on development criteria but not Bangladesh! (Ravenhill, 2004: 145, ftn. 4).

9. In November 2007, the five countries of the East African Community (EAC) – Burundi, Kenya, Rwanda, Tanzania and Uganda – broke away from the East and Southern Africa ‘region’ and signed a separate interim agreement with the EU, thus creating a seventh ACP group.

10. Interestingly, the origins of the EBA lay in the Doha negotiations rather than the Cotonou Agreement, which partly explains the imperfect fit between the former and the trade component of the latter. Although the EBA is ‘Lomé-equivalent’ in the sense that it offers eligible countries duty- and quota-free market access to all goods except arms and munitions, it actually shares more in common with the GSP than with Cotonou. For instance, the EBA adopts the GSP ‘rules of origin’ rather than the more flexible provisions of Cotonou (the GSP allows for ‘diagonal cumulation’ but stipulates the highest value added must occur in the final stage of production, whereas Cotonou allows ‘full cumulation’ to occur anywhere in the ACP). Although this difference may seem like a narrow, technical point, rules or origin rather than tariffs or quotas are often pointed to as the main trade barrier facing LDCs (see, for example, Brenton, 2003).

Against this, the EBA does not require reciprocity and there are no provisions for WTO-plus coverage comparable to those set out in Articles 41–52 of the Cotonou Agreement.

11. Confidential interviews: Geneva, Switzerland, February 2009; Kingston, Jamaica, January 2009.

12. It is worth noting that, during the 30th Annual Conference of CARICOM Heads of Government, held in Guyana 2–4 July 2009, the decision was taken to rename the CRNM as the Office of Trade Negotiations (OTN) and to redefine its operational remit. Among other things, the OTN has now been re-incorporated into the CARICOM Secretariat. These changes are seen as a direct result of the fallout from the EPA negotiations, where the quasi-autonomous status of the CRNM was widely criticised in the region. The controversy surrounding the CRNM provides an interesting commentary on the EPA process as a whole, which is premised on using collective regional institutions to negotiate what are in effect a series of bilateral FTAs.

13. Confidential interviews with CRNM officials, Geneva, Switzerland, February 2009.

14. Confidential interviews, Jamaica, 29 January 2009.

15. Along with the justifications dealt with here, the CRNM (2008: 2) policy briefing also mentions the importance of EPA as a ‘forceful signal – to both investors and development partners – of the earnestness of a [sic] Caribbean's programme of economic reform’.

16. In 2006, the EU moved to a ‘tariff only’ banana regime based on a most favoured nation (MFN) rate of €176 per tonne; in December 2009, however, EU came to a new agreement with the Latin American banana producers which saw the MFN rate cut immediately to €148 per tonne, and thereafter further annual cuts will be made until a final MFN rate of €116 per tonne is reached in 2017. This agreement brings to an end one of the longest and most controversial of WTO disputes, and all but ends the prospects of future commercial banana production in the Caribbean (the Dominican Republic and, possibly, Belize being the exceptions). The sugar reforms have followed an analogous pattern since the EU took the decision in February 2006 to denounce unilaterally the ACP Sugar Protocol (SP) and to impose a 36 per cent cut to the domestically administered price – and therefore the export price received by beneficiaries of the SP – to be implemented over a four-year period. Although Caribbean beneficiaries of the SP (Belize, Jamaica, Trinidad and Tobago and St. Kitts and

Nevis), along with the Dominican Republic, were granted an additional quota of approximately 60,000 tonnes on a transitional basis until September 2009, the ability to offset the effects of the price reduction by increasing the volume of exports is tempered by the presence of an 'anti-surge' safeguard mechanism within the CARIFORUM agreement. Furthermore, Caribbean sugar producers have faced significant price competition since September 2009 when beneficiaries of the EBA became eligible for duty- and quota-free treatment, while the EPA does little to assuage the probability of further EU price reductions as part of the ongoing reform of the CAP.

17. Confidential telephone interview with a senior CRNM official, Kingston, Jamaica, 8 January 2009.

18. Confidential interviews, Geneva, Switzerland, 3 February 2009.

19. Confidential interviews: Geneva, Switzerland, February 2009; Kingston, Jamaica, January 2009.

20. Although Article 24 of GATT 1947 stipulates that FTAs must cover 'substantially all trade' (hence the need for reciprocity), in practice WTO members have been unable to agree on what in strict legal terms this actually means – to the extent that the Committee on Regional Trade Agreements has been unable to reach agreement on the legality or otherwise of any of the current crop of FTAs. In its previous FTAs the EU has adopted a quantitative interpretation of 90 per cent of all trade – thus enabling it to exempt much of agriculture from market opening commitments – and this seems to be the template that has informed the CARIFORUM agreement. Since the EU has liberalised 100 per cent of its goods sector, CARIFORUM would arguably need only to liberalise around 80 per cent of imports, rather than the 87 per cent actually agreed to, in order to meet this quantitative interpretation. Furthermore, taking into account the dynamic effects of trade liberalisation, which presumably means that the volume of bilateral trade covered by the FTA is expected to grow over time, CARIFORUM would have been entitled to claim even more flexibility than the 20 per cent exclusion cited above. However, given that Article 24 has yet to be tested under the WTO DSM, the extent to which CARIFORUM did or did not exploit the full range of available flexibilities remains, to say the least, moot.

21. Although the Cotonou Agreement also required preference-receiving countries to grant to the EU any more favourable treatment offered to other developed countries, the CARIFORUM text extends this to advanced developing countries and regions which

account for more than 1 per cent and 1.5 per cent of world trade respectively. ECLAC (2008: 32) estimates that, on the basis of 2005 trade data, this provision would be sufficient to preclude CARIFORUM from signing an FTA with China, Brazil, Hong Kong, Singapore, Mexico, Taiwan, the Association of South East Asian Nations (ASEAN) and the Southern Common Market (MERCOSUR) without offering MFN treatment to the EU.

22. The 1984 CBERA stipulates that eligible countries must not provide preferential treatment to products of developed countries that are likely to have adverse effects on US commerce. It remains to be seen whether or not the CARIFORUM agreement falls into this category, but it is at least theoretically possible that US officials could invoke this provision to justify withholding preferences or, perhaps more likely, insist on reciprocal market access equivalent to EPA.

23. Confidential interviews, Ministry of Trade, Belmopan, Belize, 3–6 February 2009.

24. During the Hong Kong ministerial in 2005, the EU pledged to contribute €2 billion a year to the WTO's Aid for Trade fund by 2010 – half coming from the Commission and half from member states. This commitment is, however, far from assured: a 2008 European Commission report (cited in South Centre, 2008b: 22) acknowledged that while the Commission itself was close to reaching its annual €1 billion contribution, members states would need to increase their collective spending by approximately 56 per cent in order to match the Commission's contribution. It hardly needs to be added that the onset of the global financial crisis makes the likelihood of this happening even less likely.

Related Research Data

The G20 at the Cancun Ministerial: Developing Countries and Their Evolving Coalitions in the WTO
Source: World Economy
Hubs and Spokes, and Free Trade in the Americas
Source: Unknown Repository
Understanding the EU-ACP Economic Partnership Agreements: The Case of CARIFORUM
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