

Analysis of Contents of the CARIFORUM and Pacific ACP Economic Partnership Agreements and Challenges for 2008

Executive Summary

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This report identifies the broad features of the Interim Economic Partnership Agreement (IEPA) that has been initialled by Fiji and Papua New Guinea (PNG) and the full Economic Partnership Agreement (EPA) that was signed formally by most of the states of the Caribbean Forum (CARIFORUM) on 15 October 2008. It provides a ‘baseline analysis’ of highly complex documents which make many specific commitments – the tariff reduction schedules alone run into thousands of lines and are in some respects the most straightforward part of the agreements. Informed discussion of these agreements (which must surely be a pre-condition for buy-in) requires the sorting out of what has definitely been agreed, what may have been agreed (in the sense that there can be varying interpretations of the commitments), and what has definitely not been agreed.

Some broad findings

The report provides a baseline analysis together with an indication of the broad country and region-wide effects. The main text takes in turn each part of the agreements: the general provisions related to trade in goods, the specific goods liberalisation commitments of the parties, and the agreement on services in the main text of the CARIFORUM EPA. It is important to emphasise that much more country-specific work remains to be done before the full development implications of the EPAs can be identified and quantified. This is partly because the changes are so numerous that focusing on individual countries is necessary to allow sufficient depth of analysis. But it is also because some of the most substantial effects will arise from the clash of the agreed EPA rules and the current established practice in some countries. Unlike tariff changes (which are reported in detail in this study) such potential clashes between the EPA rules and African, Caribbean and Pacific (ACP) policies are not self-evident from a desk-based analysis such as this one.

For these reasons this report expresses no view on whether the development impact of the EPAs will be positive or negative – such conclusions can be drawn only following country-specific analysis for which the data in this report will provide the foundations. None the less, and despite the caveats, it is possible to draw a number of general ‘lessons’ from the substantial analysis that has been completed.

A first lesson is that there is a need for stakeholders interested in understanding better what has been signed/initialled by their governments to be clear regarding the exact dates (day, month and year) by which liberalisation of individual products must take place under the EPA. In reality, for example, the CARIFORUM EPA liberalisation ‘clock’ has already begun to ‘tick’ and the first round of tariff liberalisation must take place effectively before 1 January 2009.

A second lesson from CARIFORUM is that claims of commitment by the region to tariff harmonisation are not reflected in reality – a common external tariff (CET) is still a distant prospect. The CARIFORUM will effectively not have a CET in place for the EU until 2033 at the earliest. There are such significant differences between the individual country liberalisation schedules that have been agreed under the CARIFORUM EPA that the regionally coordinated element to the exercise is less apparent than the national element.

This situation also makes it almost impossible to do any meaningful region-wide analysis or assessment of the EPA from the CARIFORUM perspective. An analysis of each individual CARIFORUM country liberalisation commitments/schedule is the only way by which a proper assessment of the impact of the EPA could be achieved. This in itself is likely to be a time-consuming effort but is the only way to make real sense of, and understand, what has been signed.

For the Pacific countries, they have committed to liberalising between 84% (Fiji) and 88% (PNG) of imports from EU. However, the impact might not be that significant given that most items to be immediately liberalised are already duty free or not produced domestically. The change to the rules of origin (RoO) for fish processing have been welcomed in the region and could be commercially valuable – but further case studies on the commercial enterprises that will be affected are necessary to quantify the impact.

How soon will commitments bite?

This list of broad lessons indicates that three features of the EPA process stand out above all others:

1. the documents involve complex and wide-ranging commitments;
2. the country and regional impact of these could be very substantial; yet
3. there has been almost no informed discussion of these details based on independent analysis of their likely impact.

Despite this, there has been considerable pressure for the CARIFORUM states to move quickly to signature and on the other regions (including the Pacific) to complete the IEPA negotiations. During the course of preparing this report the European Council moved towards removing Guyana from the list of countries eligible for duty-free and quota-free (DFQF) access to the European Union (EU) market if it failed to sign a full EPA. It appears that some governments have supported (I)EPAs because they believe that they will produce desirable development effects, whilst others have done so for more pragmatic reasons – the avoidance of tariffs being imposed on their exports or a desire to support regional solidarity. But none has yet commissioned in-depth analyses of the potential EPA effects or discussed the findings with stakeholders.

In the absence of informed public and stakeholder debate and of follow-up studies the possibility must exist that countries have initialled or signed agreements that turn out to have some undesirable (and possibly unforeseen) effects. Because of this it is important to ask the questions:

1. how soon will commitments bite (in the sense that policy changes must be made that have a substantial economic impact);
2. how long will there be substantial costs to leaving the EPA; and
3. which of these two dates comes first?

An EPA is not necessarily ‘forever’; the two agreements analysed in this report will remain intact only so long as the parties consider it to be in their interests to remain members. This means that the ‘sign/initial now – do the impact assessment later’ approach involves serious risks only if the injury occurs before the completion of the impact assessment or if the costs of leaving the EPA are even greater than those of remaining a member.

The answer on tariffs is ‘not soon’

Each of the 17 ACP states covered by this report has a separate liberalisation schedule. Although few avoid *any* early reduction of some relatively high tariffs, most have schedules under which the early tranches of liberalisation include mainly goods on which the tariff is already zero or very low. In CARIFORUM some states must remove some tariffs (a few of which are high) very soon – before the end of this year, a fact that has been obscured by the terminology used by the negotiators to describe the liberalisation

timetable. But apart from this initial flurry of activity, a start will not be made on dismantling most of the high-tariff items that will be liberalised during the EPA until 2011, and they will not have been reduced to zero until 2023. Moreover, the region has obtained an additional ten years (to 2033) to liberalise a relatively small number of particularly sensitive items.

In the Pacific, PNG presents the extreme case of front-loading from all the (I)EPAs: it will undertake all of its liberalisation on entry into force of the agreement! But the resulting 'shock' will be smaller than might be imagined since almost all (94%) of the tariffs that will be 'liberalised' are already set at zero. Only 305 of the products to be liberalised faced positive tariffs pre-EPA and many are not imported from the EU. When calculating the 'hypothetical revenue loss' resulting from liberalisation (a concept that has some uses but which also carries a strong 'health warning') the figure for PNG was a mere €4,200.

The timetable for Fiji's liberalisation is more conventional (running to 2023) – but is a decade shorter than that available to the CARIFORUM states. Unconventionally, its tariff cuts are not made in instalments over a period of years – so current tariff levels can be maintained until the date set in the IEPA for their complete removal. Some high tariffs will have to be removed in 2018 but most can continue until 2023.

The answer for other provisions is less certain

Whereas the actions required of the ACP states on tariffs are clear cut, other requirements are either open to interpretation or will depend upon events. In principle, a whole raft of non-tariff restrictions to imports of goods must be removed on the EPAs' entry into force or within ten years (for CARIFORUM 'para-tariffs'). But, since the taxes and restrictions are not specifically listed in the EPA, there exists some ground for interpretation. In other cases, such as the well-known 'MFN [most-favoured-nation] clause', implementation will be required only when specific events have occurred, at which point it will become possible to assess the likely impact.

This uncertainty is important because the absolute impact of such measures could be much greater than that of the removal of tariffs (at least until the final years of liberalisation). Country-specific research will be required to establish the extent of 'vulnerable taxes and policies', but the initial impression is that these relate more to intra-regional trade than to imports from the EU. If countries tread carefully when interpreting the requirements of the EPA and make maximum use of any ambiguity to defer implementation, it may be possible to assess fully the implications before a case comes to dispute settlement.

Costs of leaving

For those countries motivated primarily by a pragmatic desire not to lose preferences for their exports, the cost of leaving the EPA at some point in the future (when faced with implementing an unacceptable commitment) will be set by the commercial value at that time of the DFQF access granted by the EU. Currently, the highest costs of leaving would be faced by countries exporting sugar and rice to the EU. The states for which the costs are currently highest include Fiji, Barbados, Belize and Guyana. By contrast, the costs of leaving are small or negligible for Antigua/Barbuda, Bahamas, Grenada, St Kitts/Nevis, St Vincent/Grenadines and Trinidad/Tobago.