

# **Lessons from other regions' experience in negotiations**

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## **How regional groups negotiate**

Regional groups may negotiate jointly because they are required to do so, because of internal commitments (a common tariff or common standards, for example) or because of external obligations, for example if the region is a member of an international organisation (as the EU is of the WTO and the European Bank for Reconstruction and Development). They may do so because other organisations ask them to do so (as the EU has done to ACP regions in the proposal for EPAs). Or they may do so by choice: because the countries have common policies or negotiating objectives or because they think that joining with other countries will give them negotiating strength.

There are now several customs unions (which in theory must negotiate jointly), some of which have existed during at least one multilateral round of negotiations, in addition to bilateral and other plurilateral negotiations, and many Free Trade Areas, which might be assumed to have common interests and want to work together. It might, therefore, be expected that there are many examples of joint regional negotiations. In fact, there are few: even the customs unions have not always behaved as such and the FTAs have never done so. Since the Uruguay Round, the growing importance of regional trading groups among developing countries has led to an interest in using these as negotiating blocs, and some of the negotiating positions have been defined by broad region. But only the EU negotiates as a bloc. At the Seattle Ministerial Meeting of the WTO, there were some initiatives by broad regions (Latin America, Caribbean, Africa) in blocking a settlement, and some formal regions (SADC, CARICOM, for example) had information meetings. In the preparations for Doha and at Doha, however, common characteristic groups seem to have been more active and more effective: the Least Developed and the Small Islands prepared positions in advance and both obtained special mentions in the Declaration. Again, it was only the broad regions (notably Africa), not formal regional groups, that acted together.

CARICOM has made joint commitments in the WTO, and it intends to negotiate jointly in the current round, and it has negotiated jointly in the FTAA<sup>1</sup> negotiations. Its experience in multilateral and FTAA negotiations will therefore be discussed below. SACU and MERCOSUR<sup>2</sup> both existed during the Uruguay Round, and needed then, and need now, to negotiate jointly in tariff negotiations (they do not need joint positions on services or rules, although they might be expected to have common positions), but they have not developed a plan or institutions for collective negotiations. Their experiences will also be discussed, but more briefly. COMESA needs to negotiate jointly in the current WTO negotiations for the countries in (or expected to join) the common tariff area. (This paper will not deal with COMESA.) The FTAs, far more numerous than customs unions, from NAFTA to SADC, have not shown any interest in joint negotiation, even when (as with SADC and some other ACP regions) there are proposals to transform them eventually into customs unions.

These failures to negotiate together, even when there are legal requirements, suggest that most of the regions are seen primarily as a way of integrating their members. The need to have a common external position is accepted as a (perhaps inconvenient) consequence, but not as a priority.

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<sup>1</sup> Free Trade Area of the Americas.

<sup>2</sup> Argentina, Brazil, Paraguay, and Uruguay.

They are not treated as negotiating blocs, formed to strengthen the members' position in the world economy. This history means that the ACP regions (except, to a limited degree, CARICOM) have no policy basis or institutional structure for the negotiations which they are expected to undertake with the EU under the new ACP-EU proposals for EPAs.

### **When have regions chosen to negotiate jointly?**

The EU countries have coordinated their positions on tariffs since becoming a customs union, but even in the Uruguay Round they did not always agree on subjects which were not yet delegated to the European Commission. Until 1992 they had some separate bilateral agreements: different quotas for suppliers under the Multi-Fibre Arrangement, the different banana regimes, different quotas on cars, etc. The EU now has competence within the WTO to negotiate for its members on trade policy for goods. The position on other questions is more complicated. Some services are under EU competence; some are shared, particularly those which involve regulation. Until the end of the Uruguay Round some were still reserved to member states, but the adoption of new provisions (under Article B3 of the Rome Treaty) removed this. Intellectual property is now at EU level. Investment policy, which is now coming onto the multilateral agenda, involves both the EU and the member states. During the Uruguay Round, the EU as a group was not a member, so representatives of individual member states spoke on matters of EU competence, but in principle did so on behalf of the EU, not their own country. The countries now coordinate in both the WTO and bilateral negotiations even on subjects that are not yet fully of European, rather than national, competence, and both the EU itself and its members are members of the WTO. There are, of course, still national differences and public disagreements, but these are resolved before agreements are made.

Other groups have coordinated less. In the Uruguay Round, South Africa participated only formally until the change of government which came at the end of the Round, while the other SACU members were normally not present in Geneva. The dominant position of the South African economy meant that South Africa negotiated, and the others then put in almost identical offers. This required all of them to reverse their positions, following South Africa, in the final year when the new South African regime was putting in a substantially more liberal offer. It also meant that all five were *de facto* treated (by South Africa's choice) as developed countries for tariffs. As three of the other four are developing countries, and Lesotho is Least Developed, this imposed significant extra obligations on them. SACU normally now negotiates together in the WTO, but not always on areas where the Least Developed (Lesotho) and developing (Botswana, Namibia, and Swaziland) members have different obligations from the developed (South Africa), and where it is possible for the countries to have different policies. SACU members continue to have separate agreements both within the region (two are still associate members of COMESA, in spite of the moves there to a customs union; some have bilateral agreements with other SADC countries) and with the US and EU. The AGOA negotiations and acceptances have been at national, not SACU level (because of US concern about Swazi legislation as well as because of economic differences), and the BLNS countries continue to have better access to the EU than South Africa (better rules of origin, fewer restrictions, sugar quotas) under the ACP rules, while Lesotho has the right to Everything But Arms (EBA) access as a Least Developed country.

CARICOM did not negotiate jointly in the Uruguay Round, but it agreed jointly on the tariff that was eventually bound. In 2003 it shifted to a common approach in the WTO on all issues. Pre-

FTAA, the CARICOM countries had already been negotiating jointly with the US to obtain 'NAFTA parity' for their exports, especially of processed manufactures. (Mexico had obtained duty-free entry for products similar to theirs, and the Caribbean countries tried to improve their bilateral preferences in the US to a similar level.) They thus have experience of negotiating together, even on a question – preferences in a third country – on which they would not necessarily be required to have the same policy. They negotiate jointly now in the FTAA, and they have also negotiated jointly with Cuba, Central America, Colombia, and Venezuela. Although in principle they were allowed until recently to negotiate independently, subject to notification, in practice they have not done this.

MERCOSUR had begun to act jointly as early as 1992 (while it was still moving towards integration). During the Uruguay Round, its members jointly committed themselves to binding the CET at 35 per cent (Zormelo, 1995, p. 32). There are, however, no permanent mechanisms for coordination at the WTO, and MERCOSUR did not even send observers to the Doha Ministerial meeting (even some Latin American free trade areas sent observers). MERCOSUR negotiates jointly in the FTAA. MERCOSUR has also developed a common approach to the EU, both in framework agreements in the 1980s and early 1990s and now in formal negotiations for an FTA. It has negotiated so called '4 + 1' agreements with Bolivia and Chile. It has failed, however, to negotiate jointly with the Andean countries. These free trade agreements are in part a rationalization to MERCOSUR level of the existing bilateral agreements which each member country had with other Latin American countries under previous Latin American trade regimes. Nevertheless, Brazil and Argentina still take independent initiatives, and have not yet become accustomed to acting only through MERCOSUR. In their relations with Mexico, for example, the MERCOSUR countries have not acted together. Following a failure to negotiate a joint extension of their bilateral agreements with Mexico, Brazil cancelled its agreement in December 1997, while the other three renewed theirs.

MERCOSUR can *de facto* make most of its Latin American agreements arrangements on a country basis, not jointly, because trade with these countries is limited, and tends to concentrate on one or two MERCOSUR countries, for example, a clear identification of interest in Venezuela with Brazil. It is outside Latin America, where all the countries have strong trading interests, that it has operated jointly, and not only with the US and EU. It has talked about links to both ASEAN and SADC, although these seem to be more a way of showing an interest in building up alternative trading relations outside Latin America and the FTAA than active initiatives.

The WTO treats the customs unions differently in its Trade Policy Reviews. The EU has been reviewed as a single customs area since the first review under the GATT, before the EU was itself a member of the WTO (it was the old GATT concept, 'a customs area'). The first review of South Africa (1994) mentioned SACU, but did not review the other members; the second (1998) and a third (2002) reviewed all five members at the same time and with a common discussion in the Council, but as separate countries. The reviews of the MERCOSUR and CARICOM countries (and of COMESA, even since the introduction of the CET) have been completely separate.

The NAFTA countries claim to coordinate, but on many issues they are strongly divided. Other regions from Africa and Asia have regular meetings of ambassadors, and there are broader coordination groups based on the Africa group. The most important groups in most negotiations,

however, remain alliances with common interests (such as sugar exporters).

Up to now, most regions have not had competence in the areas of monetary and exchange rate management that would make joint membership or actions in the IMF appropriate or formal ties in security, which could suggest joint membership in the UN agencies. Legally, the IMF has countries, not currencies, as members. As the areas of responsibility for which the EU member states have obligations to the IMF shift to a European level, however, there could be room for change. Unlike the WTO, IMF country reviews are still of the individual countries, not the EU, but again this may be decreasingly suitable in a common exchange-rate area. The question of representation in the IMF and other international financial institutions after monetary union is still under discussion by the finance ministers; it has been agreed that one will speak for all, but membership is still in question. Even though four of the SACU members have a common currency, all have been individual members of all the international organisations.

It can perhaps be concluded that formal joint negotiation is not seen as a priority by most regions. Other ways of meeting the legal requirements, where necessary, are used. Where there is no legal requirement, there has been little interest in joint negotiations.

### **The EU's history of negotiation with regions**

Given the EU's ideological commitment to the idea of regionalism, it might be expected that regions would have been encouraged to negotiate jointly with it. Its size, level of development, and now age have given the EU a particular role in relation to other regions, not only as a model (or anti-model), but also as a trading partner and aid donor with a strong commitment to a regional approach. The EU, as a region itself, takes a strong view that economic linkages should be, perhaps need to be, reinforced by institutional linkages. This means that it not only accepts regions as trading partners or joint recipients for aid, but encourages their institutional strengthening. The EU also applies its interpretation of its own experience - that forming a region promoted growth, efficiency, and also intra-regional security and peace - to other regions, and therefore sees this as a reason to encourage countries to form regions. This encouragement of regional integration has been a long-standing policy towards the developing countries, and more recently in relations with the East European countries. It is only in the last five years, however, that the EU has moved beyond this to encouraging region-to-region trading arrangements in its relations with them. (It has still not actually signed any FTAs with regions, although it has with individual countries.)

In Latin America, the EU was active in promoting and assisting regions. Assistance began with the first EC/Latin America Joint Committee in 1970, following which the EC established direct relations with the Andean Pact, which was regarded by the Commission as potentially similar to the EC and therefore received substantial assistance. (It is probable that EC assistance kept the Pact alive through the late 1970s and 1980s when there was little active local integration.)

In Central America, there was strong EU support to the regional organisation from the late 1970s. An agreement was signed in 1985, when the CACM might otherwise have collapsed, and when internal integration was very limited. As with the Andean Pact, some of the assistance was directly to the regional organisation, including financing costs like the loss of internal tariff revenues.

The EU negotiated an interregional framework agreement with MERCOSUR in 1995 and in 1997 a parallel agreement with Chile, with the objective of signing of an EU-MERCOSUR free trade area. Chile by this time had an FTA with MERCOSUR, and the EU planned parallel agreements, recognising that it could not sign a single agreement with an FTA. Again, there was institutional assistance, as well as customs cooperation, and promotion of joint ventures and regional activities generally. MERCOSUR's negotiations with the EU continue although an agreement has now been signed with Chile (which has fewer sensitive products in agriculture).

In North Africa, the EU's negotiations have been with individual countries, although it has encouraged some cooperation on infrastructure.

The exception to the EU's regional approach, of course, has been the ACP. These were treated as a single group, even where regions with common tariffs existed, as in the Caribbean. There has been support to internal integration, including to CARICOM, SADC, and COMESA. It supports administration and studies on how to integrate different sectors. It has also provided more general support for removing practical and legal barriers to trade in order to encourage trade and investment. But the Lomé preference-based approach has meant that there was no need or opportunity to build experience in the regions on negotiating with the EU, or for the EU to build capacity in this. Neither the regions nor the ACP secretariat had to negotiate specifically on trade.

### **Negotiations with the US as a stimulus to regional approaches**

In practice, the FTAA seems to have been a more important stimulus to developing joint approaches to negotiations than the EU. CARICOM and MERCOSUR had to negotiate to obtain the right to joint negotiation in the FTAA. The US position there was initially that it would negotiate only with individual countries, not with regions. It eventually accepted the logic that CARICOM and MERCOSUR had common external tariffs. It is interesting that the two regions seem to have argued more strongly for their right to act as regions there than in the WTO. The US attitude has been that regions are only useful as step toward multilateral integration, and it has not put the same aid into institutional development that the EU has. Nevertheless, the developing region most enthusiastic about regions has been the Western hemisphere, with both continent-wide and sub regions appearing (and occasionally disappearing) regularly since the 1960s. One possible explanation, of course is that the regions are in part intended to avoid dependence on and dominance by the US, and this helps to explain the insistence by both CARICOM and MERCOSUR that the tariff negotiations (and *de facto*, others) be on the basis of regions, not countries. (An FTAA would presumably replace all the FTA regions, and this does not seem to be opposed.) Some of the negotiations are on topics that are clearly governed at customs union level, like tariffs. Others are not included yet in the unions, while others, like services, are being simultaneously integrated in the customs unions and negotiated in the FTAA. This has raised the question of how to proceed on these: MERCOSUR has tried to delay the FTAA negotiations to allow this, while CARICOM seems to have accelerated its internal integration.

The African countries have not had the opportunity to negotiate with the US, except in the limited sense of negotiating the implementation of AGOA. This, however, has been on a country

basis, and is a negotiation about how to use preferences, not about market access, so that there has not been the build up of experience that the Latin American and Caribbean countries have had.

### **How regions negotiate jointly**

The Appendix table summarises the evidence on joint negotiation for a range of regions in the late 1990s.

#### *SACU*

The external trade relations of South Africa are not necessarily the same as those of the other SACU countries. South Africa has always been treated as a 'developed' country in GATT and the WTO, although it was admitted to the Generalised System of Preferences (GSP) in 1994. The other four members are developing or Least Developed countries, not only eligible for GSP from all the developed countries, but receiving trade preferences under Cotonou from the EU, and, in the case of Lesotho, under Everything but Arms. The SACU countries have negotiated eligibility for AGOA individually. In the period of sanctions, the divide was of course even sharper, and an informal negotiating group of the other four emerged. Although South Africa is now negotiating jointly with the others for some purposes, different arrangements can still be made (as has happened on timing in SADC, for example). Formally, SACU trade policy was entirely in the hands of the South African Government, until the establishment of an institutional structure in 2000. The Council of Ministers is now the formal decision-making body, supported by a Tribunal of independent experts and a Secretariat. The Secretariat is responsible for administration, not for negotiation or policy setting. The overwhelmingly greater economic and political power of South Africa has meant that its trading interests (and external countries' interests in trading with it) inevitably dominate any decision about trade policy.

For most of its history, any member was able to sign an agreement with a third country provided it consulted the others and did not allow trade to evade tariffs. This allowed South Africa to negotiate independently with the EU, and permitted several bilateral arrangements by members of SACU with other southern African countries. There is now more control of these, although two members remain associate members of COMESA, in spite of its moves to customs union

#### *MERCOSUR*

MERCOSUR has the competence to negotiate with other regions, and the free trade agreements it has signed (as a group) with Chile and Bolivia (individually) suggest that it has learned how to coordinate negotiations at least on a small scale. Even when it is MERCOSUR which is acting, this is still, under the present administrative structure, implemented by one of the members, not by an equivalent of the European Commission. There is a larger secretariat than SACU, but it is also mainly administrative. Studies and policy making remain at national level.

There are, however, additional mechanisms and procedures in the negotiations that support a joint approach. In the FTAA negotiations, negotiations take place in 11 working groups by subjects. These have now continued for 6-7 years, with the target finishing date 2005, so that there has been time to develop positions and expertise on the various issues. The negotiations have probably had a higher than normal input by, and weighting toward, expert opinions. There

has been substantial informal and semi-formal exchange of views among experts and officials of the four countries. This has influenced the MERCOSUR approach to other negotiations. The first stage (over 2-3 years) of the EU-MERCOSUR negotiations was devoted simply to agreeing on data, on trade and trade instruments. In some of the more specialised areas (SPS and TBT, for example), this is still a major part of the negotiations. There is, for example, an expert group (joint EU and MERCOSUR, supported by the EC and by the Inter-American Development Bank) that prepares working papers on subjects in the EU-MERCOSUR negotiations and uses them for briefing conferences (as well as more informal contacts). (Appendix 2 gives a list of papers currently being discussed.) The Inter-American Development Bank, the Organisation of American States, and the Economic Commission for Latin America and the Caribbean were authorised to provide data and analytic support to the FTAA negotiations. The attitude of the FTAA negotiations, promoted by the US, was that these were negotiations to achieve economic advantages (a significant contrast to the internal MERCOSUR negotiations, which had been started for political reasons, with the economic ministries and negotiators trailing behind). As MERCOSUR sees the EU negotiations as a second side of a triangle (US-MERCOSUR the first: this matches the EU point of view), it naturally follows the same approach there.

In WTO negotiations, as well, Brazil in particular, which has always devoted a relatively large staff and a well-trained and experienced corps of negotiators to international relations, treats participation as a professional, economic and legal, problem, with a long term commitment to provide sufficient resources to perform well.

These processes have not really yet come together into a MERCOSUR approach. There is substantial expertise, but still not concentrated on regional priorities. On most issues, national interests are similar, so that this is a problem less of different positions, than of not fully focused efforts. The MERCOSUR countries have been able to focus on reaching an internal agreement, and settling much more serious internal differences of economic approach, so this suggests that the external negotiations have not been regarded as being as central to national interests. (That both the US and the EU negotiations are seen in terms of each other, not in terms of what MERCOSUR can gain, supports this.)

#### *CARICOM*

CARICOM normally does negotiate as a group, but like MERCOSUR does this less formally than in the EU. It has an unusual approach because it attempts to divide internal integration (the responsibility of the CARICOM secretariat and the ministerial structures around it) from external negotiation (with a Regional Negotiating Machinery). Both, however, reflect the weaker centralisation than in the EU: responsibility for trade policy remains entirely with the trade ministers of the individual countries, working together.

Quarterly meetings of the trade and development ministers, plus advisers, plus CARICOM, plus RNM, discuss and make decisions on not only trade but other economic questions, so that at that level there is coordination of policy. Then, negotiating authority is delegated to the RNM for FTAA negotiations, although this does not appear to be happening for EPA or WTO negotiations.

How this has worked in practice has varied, both as personalities changed and in different negotiations. The RNM was formally established in 1997, under the direction of distinguished

ex-trade officials and policy makers from the Caribbean countries and international institutions (but not from CARICOM), The RNM stresses that 'since December 2001...it now has a "new" culture which emphasizes transparency, accountability, consultation, teamwork, responsiveness to stakeholders, rapport with the political directorate, partnerships with international regional donor institutions and cooperation with regional organisations' (CRNM-PR 04/03). This provides a clear, if slightly harsh, indication of the views of observers about the 'old' culture. Because the secretariat officials saw themselves as senior experts and policy makers, they felt that they should make policy, rather than coordinating it, with little accountability to the countries and none to the CARICOM Secretariat.

The 'new culture' does seem to be allowing more effective coordination with CARICOM and country trade ministries. Formally, little has changed, but almost all the senior officials have changed. Although the new Director General is also an experienced and well informed trade official, he is accustomed to working as part of a government, not to leading an international organisation. (Both CARICOM and RNM argue that there is closer collaboration, and RNM officials now attend Trade Minister meetings, but there remain tensions about lack of consultation and duplication, with CARICOM in particular still not completely convinced of the need for a separate organisation.)

The RNM has a total of 10 professional staff, providing expertise on the main negotiating areas, agriculture, services, and TRIPs, and on the three main negotiations, FTAA, EU, and WTO, as well as a private sector adviser. A large share of the budget still comes from donors (UK, CIDA...). The organisation would not exist without this. It has a training programme which over the last 4-5 years has increased the number of trade officials in the region with experience of both the RNM and other international institutions. It has had intermittently a newsletter (this has recently been resumed), and it has, but is not currently using, a website. Its internal coordination among the staff is being improved, but it seems clear that up to this year coordination was on a personal and *ad hoc* basis, not through permanent institutional tools, and this has reduced its effectiveness. Although many of the staff and external associates are highly competent individually, they literally do not always know each other.

This is in sharp contrast to CARICOM which has a long institutional history and effective coordination among officials within CARICOM and regular contacts with those in trade ministries. There, the organisation is primarily on a topic, not a negotiation, basis (one customs person deals with all agreements). CARICOM also has people dedicated to the external negotiations, with a parallel organisation (responsible people for the different negotiations and the different subjects). It is the CARICOM services division which is compiling and coordinating countries' offers and requests on services in the WTO.

The RNM has always been located in a different country from the secretariat (Barbados, instead of Guyana). This means that formal arrangements must be made to coordinate the two organisations. Under the previous Director, there were offices representing the RNM in London and Washington. These have now been closed. There is an office in Jamaica, which is in charge of trade negotiations (and which is the current Director General's home country), and they have placed representatives in Geneva and in Brussels.

Bernal, the current Director General (Bernal, 2002) suggests that it negotiates in different ways

in different fora. In the WTO, the negotiations are mainly by the countries, with the RNM limited to offering experts to do studies, as needed. Not all countries have permanent missions in Geneva, so Jamaica, Trinidad and Tobago, the OECS (Organisation of Eastern Caribbean States), and recently Barbados have *de facto* represented the others. The RNM has had informal representation, and this is now being made more formal (apparently without previous consultation or agreement with CARICOM). Cooperation on offers and requests is much closer than during the Uruguay Round (mainly through CARICOM, not the RNM, although the RNM can refer issues to them for discussion). A working group of country representatives chaired by CARICOM deals with both internal and external negotiations on this. This includes both officials and private sector, with the attendance determined by the service under discussion, so that it supplements the national committees and national consultations. It was established as part of the FTAA process, and that in turn was based on a group that had dealt only with internal Caribbean negotiations, suggesting that any division among negotiations or between external negotiators and internal integration is unlikely to work. It will make a joint CARICOM offer (CARICOM believes that its internal liberalisation of services now means that it meets the criteria for a region under GATS Article V). Requests from other countries have been made to individual CARICOM countries, but these are now being compiled by CARICOM. There will be CARICOM, not national, positions on the Singapore issues. Again, this follows the adoption of some internal cooperation and frameworks. CARICOM thinks that there is also a basis in Caribbean arrangements on transparency in government procurement for a joint position on this in the WTO.

In the FTAA, as suggested above, the negotiations are mainly by experts, in the negotiating groups. As noted in the MERCOSUR discussion, there is also expert support from the Tripartite group of Latin American international institutions, and the Caribbean have been major users of this. The ministers meet only every 18 months. This means that the RNM is effectively 'in charge' of the FTAA negotiations. The RNM has brought together a College of negotiators (1 each plus 1 alternate for each of the FTAA working groups, drawn from the country negotiators). Although the other countries may still send representatives to working group meeting, in practice only a few do. All the FTAA offers and requests are on a group basis.

The Caribbean countries are widely believed to have had success in the FTAA negotiations in securing a working group on small country interests and more specifically in securing a different negotiating basis (bound, rather than applied) on tariffs specifically for CARICOM. This may suggest that in an unequal negotiation, moving to a technical rather than a political negotiation may be an effective path. But the strong tradition of trade expertise in the Latin American countries, which contributed to making the FTAA negotiations technical, was also a reason that this approach worked.

The FTAA is still the responsibility of the Director General: this reflects his own background (as Jamaican Ambassador to the US), but may also indicate where the priorities for technically based negotiations are seen to lie. Thus, to reach a position on common offers on Government Procurement and on Services in the FTAA, the RNM convened meetings of the Technical Working Group on Government Procurement (CRNM-PR 07/03) and experts on services: country offers were then sent to the RNM for coordination. It is not clear how this process is coordinated with the CARICOM coordination of WTO positions, although the WTO process is intended to be the basis for any offer in the FTAA. Until recently, there was no person

responsible for services at the RNM, so that CARICOM took over *de facto* responsibility.

In the negotiations with the EU, in contrast, the ministers meet regularly (every 3-6 months), and the RNM, and by implication, experts, are very much in the 'back seat'. There is, of course, no experience of expert negotiation in ACP-EU relations, and no tradition of confrontation and identification of different interests. Whether because the negotiations are still at an early stage or because they are seen as more political and less technical, preparations for EPA negotiations have been principally guided by ministerial meetings. 'Trade experts' have existed as an *ad hoc* group, not the permanent working groups of the FTAA preparations. This reflects the structure of negotiations with the EU, where half-yearly ministerial meetings, supplemented by consultations with the Ambassadors in Brussels, are the norm, not the specialised working groups found in the FTAA. The ministers and experts have met to consider Caribbean Guidelines for Phase II EPAs (CRNM-PR 11/03). The services working group and the CARICOM services section are starting to consider positions for the EPA negotiations, but this is at an early stage. CARICOM, however, expect the agreements to be similar to those under discussion in the FTAA. It is not clear what the basis for this expectation is. There in fact appears to have been little work in either the RNM or CARICOM on EPAs. Partly because the RNM was being reorganised in 2001 when preparations for EPAs were being made, it remains less informed about these than about the FTAA and WTO negotiations.

There is some interest in CARICOM in bringing the regional secretariats more prominently into the EPA negotiations, building on the group of heads of regions.

The countries have processes of national consultation on policies. It is only recently that the CARICOM secretariat has begun to consult directly with the private sector, and the RNM has appointed a private sector adviser.

As well as these official organisations, mention should be made of the role of private, sectoral associations: sugar, banana (now less active), rum (increasingly active), and rice (a new association). These provide direct input to negotiators, in Geneva, Brussels, or Washington, as well as at country and Caribbean level consultations. In services, CARICOM is trying to develop new organisations, suggesting that it sees this type of private sector participation as providing useful additional expertise (and funding). The sugar exporters (who work with African and Pacific quota-holding countries) were active in protecting existing sugar interests before the EBA offer was modified, and the rum producers not only obtained support from the European Development Fund in compensation for liberalisation of the rum market in Europe: the Producers Association was appointed to manage the programme. Jessop, 2002, attached as an appendix, provides an interesting study of how it lobbied at both EU and European country level: 'the EC made real, perhaps for the first time, the EU and ACP's commitment to make non-government entities full partners in the delivery of development'. There is a weekly newsletter from the London office of the private sector (distributed by email as well as published in Caribbean newspapers) alerting officials and private sector actors to what is happening in the EU negotiations, and when positions must be analysed or adopted.

## **Conclusions**

It is crucial to remember that the first condition for successful negotiation, whether joint or national, remains good analysis of aims leading to clear agreed priorities. With this, countries or regions can then put the necessary resources into negotiations and use their organisations effectively. For CARICOM, like SADC and COMESA, the fact that they are still not sure what form of agreement they want, and in particular have not committed themselves to EPAs, means that even ‘good’ negotiating methods and machineries will not be effective.

It is interesting to note that while MERCOSUR is following roughly the same procedures and using the same structures in its negotiations for the FTAA and for an agreement with the EU, CARICOM has very different arrangements for its three primary negotiations, FTAA, EU, and WTO. This suggests not only that there is not a single Caribbean ‘model’, but that even the Caribbean countries are not applying their existing models to their EPA negotiations.

The separation of the RNM and CARICOM owes more to the personalities involved and the choices of donors than to any analysis which suggested that the functions should be separated.

The MERCOSUR negotiations are different from the EPA negotiations because neither the US (in the FTAA) nor the EU (in the proposed EU-MERCOSUR FTA) would be as important a trading partner as the EU is to the ACP.

What the MERCOSUR and CARICOM experiences can offer is some examples of what has worked and what has not, which COMESA and SADC may want to discuss in order to devise their own ‘model’.

*What has worked:*

Long experience and commitment to maintain negotiating capacity (MERCOSUR, particularly individual country negotiators in the WTO, CARICOM in internal integration) (see also Page, 2003).

Good coordination across negotiations (CARICOM working groups).

Organising negotiations to put an emphasis on technical discussions, not ministerial meetings (MERCOSUR in FTAA and with EU; CARICOM in FTAA).

Using technical support effectively (MERCOSUR and CARICOM in FTAA).

Mobilising non-official resources (CARICOM industry groups; MERCOSUR external experts and industry groups).

Demand-driven donor assistance (the Latin American institutions’ technical support to FTAA negotiations).

*What has worked less well or badly:*

Leaving coordination to informal contacts among countries (MERCOSUR in the WTO).

Different mechanisms and responsible organisations in different negotiations (CARICOM-RNM).

Frequent Ministerial participation in negotiations (EPA negotiations).

Relying on individual negotiators ('old' RNM).

Insufficient institutional structure (RNM, MERCOSUR),

*What may not be necessary:*

An EC-type secretariat: neither MERCOSUR nor CARICOM has delegated negotiating authority; it remains in the hands of trade officials of the individual member countries.

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- Participation in EU-MERCOSUR Expert Working Group

## Appendix 1

### External relations of regions in 1999

	EU	SACU	MERC-OSUR	CARI-COM	Andean	CACM	NAFTA	G3	ANZC	ASEAN	SAARC	SADC	LAIA	FTAA	APEC	AEC
Does region negotiate?	yes	partially	yes	no	no	yes	no	no	no	no	no	no	no		no	
Does it coordinate a position?	yes	partially	yes	yes	no	yes	yes	no	yes	yes	no	no	no		yes	
Is it expanding?	yes	no	yes	no	contract	no	prob no	no	no	yes	no	yes	no	yes	no	no
Is it open?	yes		yes	no	yes	no	yes	yes	no	yes	no	yes	no		no	
Does it contain regions?	no	no	no	no	no	no	no	no	no	no	no	yes	yes	yes	yes	yes
Are they in as regions or countries	-	-	-	-	-	-	-	-	-	-	-	countries	countries	either	countries	regions
Is it in a region?	no	SADC, AEC	LAIA, FTAA	FTAA	LAIA, FTAA	FTAA	FTAA, APEC	LAIA, FTAA	APEC	APEC	no	AEC	FTAA	no	no	no
Is it in as region or country?	-	country	region	country	country	country	country	country	country	country	-	region	country	-	-	-
Does it overlap?	no	yes	yes	no	yes	no	yes	yes	no	no	no	yes			yes	
In WTO?	reg & cou	country	country	country	country	country	country	country	country	country	country	country	country	country	some	country
In TPRC?	reg	reg	country	-	-	-	-	-	-	-	-	-	-	-	-	-
Other multilateral organisations as region?	yes	no	no	no	no	no	no	no	no	no	no	no	no	no	no	no
Negotiating with EU?		yes	yes	yes	no	yes	no	no	no	yes	no	yes	no	no	no	no
Region supported by EU?		limited	yes	yes	yes	yes	no	no	no	limited	no	yes	no	no	no	no
Are members feds?	some	no	limited	no	no	no	yes	some	yes	no	no	no	limited	some	some	no

Source: Page, Sheila (2000) *Regionalism Among Developing Countries*, Basingstoke: Macmillan.

## **Appendix 2**

### **Papers prepared for the EU-Mercosur Working Group, 2003**

Negotiations of Trade in Services between Mercosur and the EU (Building blocks implied by Telecommunications and Insurance Services commitments)

A Bilateral and Disaggregated Measurement of Agricultural Market Access in the European Union and in Mercosur

Multifunctionality of Agriculture in the EU-Mercosur Negotiations

The EU – Mercosur interregional negotiation: Sanitary and Phytosanitary measures and other potential obstacles to agricultural trade

The Case of Brazil: Costs and opportunities of Different Scenarios

Effects on Mercosur of the FTAA and the Mercosur-European Union Agreement: A Computable General Equilibrium Analysis

The costs of FTAA for the European Union with and without an agreement with Mercosur  
EU-Mercosur FTA: an evaluation of the vulnerability of Mercosur imports

Rules of Origin in FTAs in Europe and in the Americas: Issues and Implications for the EU-Mercosur Inter-Regional Association Agreement

**Appendix 3**

**ADDRESS TO CTA INTERNATIONAL SEMINAR**

**The Caribbean experience with rum**

- **implications for other industries involved in trade negotiations**

**David Jessop**

**Director of the Caribbean Council**

**27 November 2002**

*Rum is a product of special importance for the Caribbean. It has been produced in the region for many centuries for domestic consumption and for export to Europe. It provides employment for 10,000 people and indirectly supports the livelihoods of many more. The industry is the fourth largest non-service sector earner of foreign exchange after sugar, bauxite and bananas. It provides each year over US\$250 million in foreign exchange and excise duties to the countries in which it operates. It is a part of the image of the Caribbean. It is intimately linked to the region's tourism product and plays an important role in agriculture and manufacturing.*

*WIRSPA is the region's internationally recognised voice of the Caribbean rum industry, believes in free trade and market liberalisation. That is, provided that it takes place within a framework that recognises the unique constraints to economic development caused by smallness and vulnerability.*

*The Caribbean Council is a small not-for-profit organisation working on trade policy and advocacy issues with a number of Caribbean industries.*

...

On December 4<sup>th</sup> last year, Cariforum announced that the European Development Fund had approved a grant of €70m to support the development of the Caribbean rum industry. This sum is in effect a compensation package for the early liberalisation of the industry's preferential market in Europe. It will be used to assist individual rum producers modernise their distilleries, install effluent disposal systems, develop an international rum marque for Caribbean rum and undertake marketing campaigns in Europe.

The grant is expected to leverage a similar sum in commercial and concessional funds to support the development of the industry over the next four years and beyond.

Uniquely, it has been agreed that a private sector entity, the West Indies Rum and Spirits Producers Association (WIRSPA), the region's internationally recognised voice of the Caribbean rum industry, will manage this programme. In doing so the EC made real, perhaps for the first time, the EU and ACP's commitment to make non-government entities full partners in the delivery of development.

The financing decision by the European Union was the outcome of a more than four year struggle with implications that go far beyond rum. During that period the ACP, Caribbean Governments, trade ministers and others sought to have Europe recognise a general principal. That is, when developed countries liberalise the market for established products from preferential suppliers in developing nations, transitional support is essential if the industry concerned is not to fail. For this reason rum was a test case.

The history is complicated. In 1996 shortly after punitive quotas on ACP rum had been lifted, the EU and US agreed to remove with almost immediate effect all tariffs on white spirits of which rum is one. They did so in order to achieve agreement on a completely unrelated, but for them more significant arrangement relating to information technology. In doing so, they failed to take account of existing tariff arrangements supporting commodity rum producers in the Caribbean under the Lomé Convention. Not only was this for the ACP an example of the sometimes exclusive and arbitrary nature of decision-making processes but it also gave early warning of the impact that trade liberalisation under the WTO can have on competitiveness.

Time does not permit me to tell you what happened in early 1997. Suffice it to say that after a hard fought battle the EU agreed, to phase in full market liberalisation by 2003 and that a special memorandum on rum would be attached to the 1997 EU/US white spirits agreement.

Despite this, because rum was a protocol product covered by the Lomé Convention, Europe felt unable to agree at that time to any arrangement to provide the industry with the transitional support it needed to move from the production of low-cost, low-margin commodity rum to higher value branded products. Instead it agreed a Council Commission declaration that recognised that the industry had been disadvantaged.

Almost immediately the industry understood that it would be necessary to develop a strategy that would ensure that in the post Lomé negotiations the impact of this early and unilateral liberalisation on its EU market needed to be fully recognised. It required an integrated

development programme that took the industry away from less competitive commodity rum into higher value branded products able to survive in a world without protection.

It realised that this would not be easy, that it would face opposition from powerful vested interests in the international spirits industry and those opposed to support for private sector development. It also saw clearly that it would have to develop a strategy that ensured that all parties were fully aware that the early market liberalisation had consequences not only for rum, but also for other ACP industries that would eventually have to go through a similar process.

After some internal debate it was agreed that it was vital that WIRSPA find a basis on which to form strategic alliances with those who might look less than favourably on an outcome that benefited small ACP producers. It therefore forged a strategic alliance with its traditional competitors in the DOM based French rum industry and with key groups of European importers of rum. The relationship with the French industry resulted in a mutually supportive accord. Under this arrangement WIRSPA agreed not to oppose an extension of the French industry's fiscal derogation for rum entering the French market. In return they obtained the French industry's support for the ACP rum cause with the French Government. This turned out to be of enormous value, even though at times the relationship was fraught with difficulties and misunderstandings.

WIRSPA also recognised very early on that if it did not have the understanding of the European Parliament and of key member states, it would have great difficulty in achieving recognition of the special problems that had been created by the zero for zero agreement. WIRSPA therefore set about, with the help of Mrs Kinnock, John Corrie and a number of other well disposed MEPs to convince key political groups in the Parliament and key committees of the justness of their cause. This resulted in a strong political signal being sent to the Commission and member states when the budgets committee, with strong French industry support, passed a budget line PM supporting the Caribbean rum industry. That is to say a budget line with no sum attached.

At the same time, WIRSPA met on a regular basis with every EU member state's permanent representation in Brussels and provided them with detailed briefing papers for consideration in their capitals. WIRSPA also met with senior members of the French and British Governments both of which were well disposed towards the industry and the Caribbean.

In parallel WIRSPA developed what I can only describe as an intelligence capacity enabling it to constantly be prepared, able to look over the horizon and share insights as appropriate with key negotiators, Ambassadors and others.

In parallel WIRSPA briefed NGOs, journalists, gave interviews in the Caribbean region, and made clear to anyone who would listen that rum was an issue of principal.

WIRSPA also recognised that it was essential that the Caribbean Ambassadors in Brussels were constantly fully informed. To this end the Caribbean Group co-ordinator for rum was able to mobilise on a regular basis not only the support of other Caribbean missions, but to liaise with the ACP Secretariat as well as with other ACP states in order to provide support

when required.

WIRSPA also engaged in a direct dialogue with the ACP Secretariat on the general matters of principle involved with other ACP nations and made sure that the lead ACP trade negotiating ambassadors, although not from rum producing countries, fully understood the issues.

In the Caribbean WIRSPA set about creating a public climate of support in every Caribbean state in order to facilitate agreement at a governmental level. It decided to brief and continually update and inform governments through each local distillery, to ensure Caricom, the Caribbean Regional Negotiating Machinery and at every relevant regional and ACP meeting rum was raised. As a result it meant that it was able to ensure that when a final confidential position paper was agreed by the industry, that Government and regional institutions had full awareness and confidence in what it said.

Finally, during this period WIRSPA working closely with Caribbean negotiators and the Regional Negotiating Machinery, were able to establish back channels with the Commission that would enable the industry and negotiators to informally try out alternative and if necessary deniable approaches.

As a result, by the time the negotiations began, WIRSPA had prepared the ground well. However it fully recognised that the case it was arguing would set a precedent; was still unpalatable to multinational spirits producers; was not liked by those unwilling to support the private sector in the ACP; and did not meet the usual development criteria.

As the negotiations went on, WIRSPA determined that it would play its cards very close to its chest, focussing on matters of principle; the damage done to the industry by the early liberalisation; the natural justice of its case; and the economic dangers that would follow from its demise.

Despite this, throughout a very small group of people including WIRSPA's Chairman, Patrick Mayers and no more than two other members, the head of the Caribbean Regional Negotiating Machinery, Sir Shridath Ramphal and the then lead Caribbean Trade Negotiator, Minister Tony Hylton, knew the industry's bottom line.

As a result, rum, with some encouragement from negotiators, proved for the EC to be one of the most difficult commodity issues to be resolved in the post Lomé negotiations. So much so that by the time we reached what was meant to have been the final Council session in December 1999, there was not even a draft text. Finally, at the eleventh hour, making use of the back channels WIRSPA with the full support of Caribbean negotiators indicated to EC negotiators that it had a draft text. After some very informal exchanges, a meeting took place at which this text was adapted and introduced into the trade-negotiating group. Eventually, this text was agreed although no mention was made of the source of funding or the amount that would be made available.

By the time the final post Lomé session took place in January 2000 it had become clear that rum was one of the issues that would hold up a final agreement if not resolved. Again there were informal consultations and a deal was struck which enabled additional language to be

added to the joint declaration on rum, indicating that support would be provided out of unallocated EDF funds.

But that was not the end of the story. What WIRSPA found was a new problem. That was turning what had been agreed politically and in the joint declaration into reality. Few people within the Commission knew how an agreement on rum had been achieved and a very complicated dialogue then began with middle level officials on turning policy into reality. Eventually, after months of discussion, and the complete reorganisation of the Commission services involved, DIAGNOS undertook at the Commission's request a study to verify the industry's needs. This resulted in a financing proposal to go forward to the EDF committee. Again WIRSPA had problems. What in effect was an economic transition package that had been agreed politically, was not seen as acceptable by some of those on the EDF committee with a strong development focus. As a consequence it proved necessary to spend more time discussing the background with member states.

Finally, in October 2001 the EDF agreed a four year package of transitional support of €70m and after all sorts of bureaucratic hurdles being overcome, the first tranche of money arrived with WIRSPA in October of this year. That is to say four years and eight months after market liberalisation began or three months before full liberalisation occurs on January 1 next year.

What are the lessons for the future?

First each industry needs to be proactive and not wait until events overtake them. They need a road map of the trade negotiations in which they are involved and must understand how to develop and insert their position into the process. This is not the stuff of the endless seminars. Rather it a single workshop at which key players make the effort to first understand the nature of each negotiation and determine how what is happening might impact on or be turned to the benefit the industry concerned. In the current environment this means understanding what is happening at the WTO, the process involved in agreeing an EPA, the likely impact of enlargement and CAP reform and how it relates to the bottom line of each industry.

Secondly, it is advisable to undertake an audit to determine in detail how and in what way trade negotiations may affect positively or negatively the viability any ACP industry or major company.

Thirdly, from this a confidential position paper should emerge setting out in practical terms and in the 'language' of the negotiation concerned exactly what an industry requires. Most importantly this must be owned by the industry concerned.

This then needs to be discussed, agreed and formally presented in parallel to Governments and regional negotiators for eventual consideration by regional trade ministers in order that it formally becomes a part of a regional position. Most importantly a strategy also needs to be agreed.

Fourthly it needs to be understood that this is the start not the end of a process that needs to be monitored almost daily though establishing a basis on which timely intelligence can be

received, disseminated, discussed and reacted to.

Fifthly the industries themselves need to be seen in Brussels and Geneva. The impact of a well-prepared direct representation by the private sector to Government representatives and the various directorates of the EC, who may have different positions or none at all, has a powerful effect.

Sixthly if strategic alliances with like-minded industries elsewhere in the world can be created they should be. Private sector diplomacy works wonders for both Governments and industries.

And finally industries with well thought through positions and a strong and able spokesperson should ask their governments to be included on delegation in negotiating sessions affecting their industries.

There are also broader lessons to be learned from the experience of rum.

Most importantly, the EU decision recognises that despite the policy constraints on providing assistance to middle ranking developing economies such as those in the Caribbean, the EU has demonstrated it is prepared to support financially the process of economic transition in those ACP countries and industries where markets are liberalised.

Secondly the rum experience suggests that the support required for ACP industries in transition to a liberalised market cannot be seen wholly as a development issue. The normal EDF criteria and time scales when applied to such programmes do not fit well with the need for rapid delivery in a finite period, operations that involve the private sector, or the dangers of an industry's precipitate collapse.

Thirdly the commitment to a public/private sector relationship remains uncertain in Brussels. Although Caricom, Caribbean Governments and WIRSPA provide a model of the ways in which an industry can work with the public sector, the rules under which the Commission operate make this type of relationship very difficult to replicate when it comes to delivery. There are some in Europe who would like to see this project fail.

Fourthly, all industries need facilitators in Brussels or Geneva. These do not have to be large consultants or lawyers who will tend to want to deliver the solution themselves. Well-qualified individuals, small organisations or NGOs who can support an industry's own initiatives and requirements have very often greater credibility and capacity to deliver a positive outcome.

Fifthly such actions, especially when sustained over such a long period, have a cost but this is relatively little in relation to the size of the industry and what is at stake. In the Caribbean rum industry's case it was its own limited resources plus some help from EBAS that delivered a positive result.

And finally, present approaches to capacity building may not relate to the practicality of trade negotiations or deliver a positive result of the kind seen for rum. WIRSPA, with virtually no

capacity, a part-time staff, a single-minded Chairman and low cost facilitation undertaken in an extremely low key, but efficient basis, enabled the industry to succeed.

The rum decision proved what government and industry working together with the same objectives could achieve. The Caribbean rum industry is well led and well prepared. It has constantly looked over the horizon and not sought to hang on to the past or argue for support for those parts of the industry that are not viable. It has spent time in Europe making clear the consequences for the region and the industry of its collapse. Its membership crosses the language divide of the Caribbean and it has forged alliances with producers in the French DOM and elsewhere in the spirits industry. Its close working relationship with Caricom, Governments, ministers throughout the region, and with Ambassadors and trade negotiators has enabled the highest levels of co-ordination and the delivery of viable solutions.

I commend it to you as a model worth emulating.