



OFFICE OF TRADE NEGOTIATIONS
... for trade matters

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Trade Brief

CARICOM-Canada Trade & Development Agreement ... The Potential Benefits

Background

A. What is trade liberalization?

Trade liberalization refers to the removal or the reduction of the barriers that impede trade between countries. By removing barriers, countries can attain improved access to each other's markets. This process involves an agreement between states to eliminate or reduce tariffs on trade between the states in question. It can also involve the removal or reduction of non-tariff barriers such as quotas or barriers to commercial establishment. It also includes the reduction or removal of administrative hurdles or red tape that can discourage transactions and make importing and exporting expensive in terms of time and money. Trade liberalization can lead to increased trade between countries.

B. What are the Benefits of Trade Liberalization?

Increased trade between states will in normal circumstances result in a net benefit to the states as a whole. The approach to the removal of barriers to trade will determine who will be affected and by how much. The removal of barriers in one sector has the potential to reduce employment in that sector if it results in imports that displace domestic production. At the same time, the removal of barriers also has the potential to reduce the costs of imported goods for consumers and thereby increase their real incomes. The reduction in tariffs can also result in reduced government revenues from imports. In formulating trade liberalization policies governments have to take these factors into account. In addition to excluding sensitive sectors from the liberalization process, governments can make provision for improving the competitiveness of domestic sectors which are at risk from the liberalization.

Few economic policy measures are costless. In trade negotiations, the intention is always to orchestrate overall net benefits for the countries taken together but also for the states individually. It is not usually feasible for everyone in a country to derive net gain even when the country as a whole benefits.

The primary benefit of trade liberalization is its potential to promote commerce and economic growth. CARICOM has tried to include in its trade provisions negotiated with its partners, elements that would assist and protect the relevant sectors and ensure that the agreement goes beyond market access and addresses supply capacity. Greater trade can facilitate growth through:

- i improved efficiency in production and resource allocation;



CARICOM-Canada Trade and Development Agreement

- ii improved access to factors of production including capital and labour;
- iii transfer of knowledge and technologies,
- iv consumer access to lower cost goods and services;
- v increased efficiency through increased domestic competition;
- vi increased job creation;
- vii Increased revenue through increased export activity, which can be used to help reduce or eliminate poverty.

C. Why negotiate trade agreements?

In recent times, many observers have asked why negotiate trade agreements at all, let alone in the current dimate of global financial crisis. Trade agreements seek to expand trade between the negotiating states. Expanded trade can be facilitated by opening markets as explained above and the trade may be made more predictable through agreed rules of engagement. Not only can these rules govern the reduction of barriers to trade between the states, but they can also improve the transparency of the trade and investment regime by promoting non-discrimination, and fair competition. Furthermore, trade agreements also facilitate regulatory cooperation with the aim of harmonizing laws, standards and regulations that may affect trade to ensure that differences in regulatory regimes do not pose as barriers to trade. These agreements are also advantageous in that they legally bind or lock in the commitments of the involved trade partners. Therefore, departing from the rules and commitments under the trade agreement would not be without legal consequence. This is particularly useful under circumstances where trade partners may be inclined to impose trade barriers in order to protect their domestic economies.

To ensure that the benefits of trade liberalization can flow from agreements between states that are unevenly endowed with capacity and resources, developing countries have also sought to base cooperation with more developed trading partners on principles of asymmetry and special and differential treatment. Such principles require that a special consideration be given to the needs of developing countries whose particular circumstances and location within the global economy have created significant disabilities and development gaps relative to more developed players which constrain their ability to benefit from trade liberalization.

These agreements therefore seek to establish instruments of cooperation designed to improve production and export capacity, thereby allowing developing countries to better compete and participate in the global market economy. Accessing these instruments is particularly important to developing countries if they are to reduce the negative consequences of trade liberalization. Emphasis on the architecture of trade agreements is therefore important to ensuring that trade liberalization is aligned with development objectives.

The difficult financial circumstances cause many developing states to worry about the adverse impact of tariff removal on overall fiscal revenues. That specific issue has to be the subject of special work on accessing alternative revenue sources, as well as the manner of phasing the liberalization process. In addition, active trade policy for developing countries should include seeking to conclude agreements that not merely safeguard existing market access but expand that access over time.



TADA – Creating a CARICOM-Canada Trade and Development Agreement

D. Why negotiate a Trade and Development Agreement with Canada at this time?

1) *The Imminent expiration of CARIBCAN*

CARICOM's current trade and economic relations with Canada are generally governed by the **1979 CARICOM-Canada Trade and Economic Co-operation Agreement** and its Protocols, including the CARICOM-Canada 1998 Protocol on Rum, and the **CARIBCAN Agreement** which is a non-reciprocal preferential trade agreement that grants unilateral duty free access to eligible goods from beneficiary countries in the English-speaking Caribbean.

It should also be noted that CARIBCAN unilateral non-reciprocal preferences are inherently incompatible with WTO rules because they derogate from one of the core principles of the World Trade Organization (WTO) which requires countries not to treat some of its trade partners more favourably relative to their other trading partners. CARIBCAN therefore requires a WTO waiver. That waiver is scheduled to expire in 2011.

As demonstrated by the WTO challenges brought against Europe's unilateral preferential regime for ACP traditional exports, namely bananas, and the problems experienced in extending and expanding CBERA and CBTPA, there is growing political and economic intolerance towards the maintenance of unilateral non-reciprocal preference regimes, both within unilateral preference granting countries and within the wider international community. Therefore, while it is theoretically possible to renew these unilateral preferences after expiration, success in this regard is not probable.

In order to secure preferential access to the Canadian market, it is necessary to utilize WTO compatible instruments, such as free trade agreements (FTAs). The Trade and Development Agreement between CARICOM and Canada will qualify as a free trade agreement and will be compatible with the WTO rules which govern FTAs.

2) *The Existing instruments for trade and economic cooperation are limited in scope*

CARICOM exports benefit from duty free tariff treatment under CARIBCAN across most product categories, including CARICOM's top 25 exports to Canada. (Exceptions include textiles, apparel and footwear). Without CARIBCAN preferential access, most of the top 25 exports will not be negatively impacted because the tariffs applied by Canada at the multilateral level, that is, the tariffs applied to its trade partners with whom it does not have a preferential trade arrangement – referred to as the Most Favoured Nation (MFN) tariffs – are either minimal or zero rated. Treatment under Canada's Generalized System of Preference (GSP) Scheme would also provide similar results for most of the top 25 exports.

However, for a few of the top 25 exports to Canada, namely Rum, Methanol, Other Articles of iron or steel, aerated beverages and Pepper Sauce, the MFN and GSP rates would not be minimal and could have a significant negative impact on these exports. Some CARICOM countries, specifically members of the OECS, export products which fall outside the top 25 basket of goods. These exports which are covered under CARIBCAN would also incur higher tariffs under MFN treatment.

In addition to not covering all products of export value to CARICOM member states, CARIBCAN also does not cover the removal of barriers to investment flows between Canada and CARICOM, or services which accounts for a growing proportion of CARICOM-Canada trade, in particular for Jamaica, The Bahamas, and Barbados.

With such limitations in coverage and its incompatibility with WTO rules, CARIBCAN is not an arrangement that can adequately serve CARICOM's evolving trade interests.



E. What are the anticipated benefits of the Agreement?

The CARICOM-Canada trade negotiations officially commenced on November, 10 2009. Nothing can be considered to be agreed until the negotiations are concluded. However, CARICOM anticipates that the final agreement will be beneficial to the region. In the first instance, it is anticipated that a Trade and Development Agreement with Canada will:

- i not require a WTO waiver and will be considered compatible with WTO rules
- ii include coverage of goods, including those which were excluded from coverage under CARIBCAN, services and investment
- iii be a long term arrangement that locks in CARICOM's access to the Canadian market

Subject to the results of the negotiations, CARICOM also anticipates that the CARICOM-Canada Trade and Development Agreement will provide additional specific benefits. In this regard, CARICOM negotiators are seeking to ensure the agreement allows or provides for the following benefits:

a. **With respect to trade in Goods:**

1. Provide duty-free quota-free access for CARICOM goods to the Canadian market;
2. Facilitate asymmetrically reciprocal CARICOM obligations with respect to the reduction of tariffs;
3. Provide as much time as possible for CARICOM to adjust to opening up their own markets to Canadian goods through the inclusion of:
 - a. Carveouts for sensitive products which will be exempt from trade liberalization;
 - b. Carveouts for sensitive items for which tariff reduction will be phased over time;
 - c. A moratorium similar to that granted in the EPA on the reduction of tariffs which will be phased over time.
 - d. Defensive instruments which will allow emergency action to deal with special circumstances which may have harmful effects on CARICOM sectors such as a sudden surge in imports.
4. Preserve the integrity of the sub-regional OECS integration process, as well as the flexibilities currently available to CARICOM LDCs under the regional integration framework such as those enshrined under Article 164 of the Revised Treaty of Chaguaramas.



5. Include flexible rules of origin in keeping with production processes in CARICOM countries;
6. Include a framework for the promotion of good regulatory practices with respect to the application of trade restrictive measures and international standards to protect health and safety. This framework will also include mechanisms for the management of issues related to the establishment and maintenance of and conformity to standards, measures and regulations that may arise;
7. Reduce the price of imports from Canada within CARICOM Markets. Therefore inputs for CARICOM producers and service providers sourced from Canada could become cheaper, which could result in the reduction of the costs of local production and the price of local goods and services for consumers within CARICOM;
8. The reduction in the price of imports can also improve competition between local goods and Canadian goods. Local consumers can expect lower prices and wider variety of merchandise, making it easier on household budgets.

b. **With respect to Services:**

1. Include access to Canadian services markets across a range of services across all modes of supply (especially Mode 4) that is better and broader than the access that Canada makes available under their GATS commitments (WTO Plus market opening). Sectors of interest include but are not limited to:
 - a. Business Services;
 - b. Construction and Engineering;
 - c. Tourism;
 - d. ICT related Services;
 - e. Entertainment Services;
 - f. Audiovisual Services;
 - g. Health Services;
2. Eliminate, as far as possible, impediments to CARICOM services providers in the Canadian market including licensing requirements, economic needs tests and permits, as well as other discriminatory requirements such citizenship requirements, and land and capital requirements;
3. Include frameworks for the recognition of the equivalence of CARICOM's professional credentials to Canadian professional credentials;
4. Include cooperation with Canada with respect to a range of services sectors of development interest to CARICOM. The overall purpose of the cooperation will be to develop CARICOM capacity and



competitiveness in services trade and to improve CARICOM's regulatory capacity to support services trade. The sectors of interest include Culture, Tourism, ICT/E-Commerce and Energy;

5. Promote transparency with respect to Canadian regulations which is necessary for CARICOM services providers to operate optimally in Canadian services markets;
6. Include regulatory cooperation with respect to the harmonization of regulatory and technical standards;
7. Promote and preserve the benefits of the intra-regional framework.

c. **With respect to Investment:**

1. Provide access to investment markets in goods and services sectors;
2. Provide opportunities for investment promotion and for local firms, especially micro, small and medium enterprises (MSMEs) to improve their international competitiveness;
3. Help attract Foreign Direct Investment to CARICOM from Canada which is linked to regional sustainable development. Such investment would include those that contribute to infrastructural development especially within rural regions;
4. Facilitate protection to investment through the creation of a sound, stable and predictable investment regime based on clear and robust rules that facilitate international best practices. Such rules will also regulate the settlement of investment related disputes, promote the prevention of environment degradation, as well as the prevention of labour exploitation. A stable and predictable investment regime will also:
 - a. Help attract FDI from third states (countries other than Canada);
 - b. Encourage the diffusion of investment across the entire region, including CARICOM countries which may not have been traditional destinations for investment flows from Canada.
5. Facilitate and promote the domestic regulation of investment flows;
6. Preserve policy space for the promotion of intra-regional investment flows

d. **With respect to Trade and Innovation,:**

1. Engender the creation of an environment that fosters creativity and innovation within the CARICOM States;
2. Facilitate the development of CARICOM innovation systems to enhance the competitiveness of CARICOM firms through technology transfer, research and development, and participation in joint ventures;
3. Include intellectual property provisions designed to help create a suitable legislative and administrative environment which will provide protection of intellectual property. However, obligations under these provisions will not be more onerous than those provided under the scope of the WTO Trade Related Intellectual Property Rights Agreement (TRIPS).



e. **With respect to Government Procurement:**

1. Establish comprehensive rules governing the transparency of procurement activities;
2. Create obligations that will address all aspects of the public procurement process including the publication of relevant national laws and regulations, publication of procurement notices, as well as equal and timely access by suppliers to relevant documentation and other pertinent information;
3. Not confer rights of access to the procurement markets of the Parties. Governments will therefore be free to open or restrict, as the case may be, their public procurement opportunities, in accordance with their own national laws.

f. **With respect to E-Commerce:**

1. Promote trade through E-commerce as a globally accessible medium through which a wider potential consumer base in both CARICOM and Canada markets may be accessed.;
2. Facilitate cooperation between CARICOM and Canada on the regulation of e-commerce.

g. **With respect to Competition Policy, Monopolies and State Enterprises:**

1. Establish rules against anti-competitive business practices such as the abuse of market power and dominance, and a commitment to establish legislation to prevent such practices by firms;
2. Include cooperation aimed at helping CARICOM to establish and strengthen all aspects of competition enforcement;
3. Allow CARICOM member states to designate and maintain state monopolies;
4. Provide allowances to CARICOM member states to refrain from applying rules of competition with respect to state enterprises when the enterprises' performance of their essential functions would be impaired by the application of those rules.

h. **With respect to Institutional Arrangements:**

1. Include a main institutional body responsible for overseeing the implementation of the Agreement.
2. The institutional structure of the body will facilitate Ministerial oversight of the Agreement, with specific responsibilities to be delegated to Officials.

i. **With respect to Dispute Settlement:**

1. Include a three tiered approach to dispute resolution. These are
 - a. Consultation;



- b. Mediation; and
 - c. Arbitration.
2. Include compliance mechanisms that will not facilitate the application of collective sanctions against CARICOM.

j. **With respect to Development:**

- 1. Include asymmetrical provisions in favour of CARICOM so that the new trade relationship with Canada accommodates the special circumstances and constraints of CARICOM countries, as well as CARICOM LDCs as small vulnerable developing countries;
- 2. Include cooperation commitments, throughout the Agreement (as demonstrated above), designed to improve CARICOM's capacity to export to the Canadian market and to help CARICOM to realize benefits from trade liberalization between CARICOM and Canada;
- 3. Be aligned with the development objectives enshrined in the Revised Treaty of Chaguaramas.

