

Market access issues for cultural goods and services in the European Union: another story of luck and burden

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Economic analyses of cultural production have consistently demonstrated that the capacity of domestic cultural industries is directly related to audience size, GDP and overall resources allocated to the audiovisual sector (Galperin, 1999).

Introduction: Cultural Markets and the effect of size

1. For the economist truly dedicated to understanding the day-to-day realities faced by small economies, it is hardly surprising that regarding cultural industries, size does matter, as it does for many economic activities, not confined to manufacturing. Economies of scale as well as other market imperfections (including concentration and market power) are important unavoidable facts that imply, in particular regarding cultural industries, that free markets lead to outcomes that are far from desirable, e.g. ever increasing dominant position of a few big conglomerates, with the progressive elimination of cultural diversity. Even the European states do feel the necessity to intervene in order to secure the survival of their cultural patrimony, which led them to develop the ‘cultural diversity’ concept which eventually will be put it in stone within an international agreement that could establish a new “cultural pillar” of international governance, next to the “trade pillar” consituted by WTO rules.

2. So for the very small cultural sectors of the Caribbean island economies, which must face the adverse consequences of physical market fragmentation in addition to their very small internal size and their remoteness from big markets², the perspectives of development are clearly foreseen as a mix of opportunities, thanks to the many artistic talents which are plentiful in the region, and strong natural limitations. Therefore their fate is clearly linked to the existence of an ambitious cultural policy, which would mobilize all available human energies, backed by a strong external support. This is the only way through which Caribbean cultural industries will be capable to tackle their entire *burden* and benefit from any *luck* that will come, to use the very words of E. Solomon (2002).

¹ The authors wish to thank Julien Guerrier for his useful comments on an earlier version of this paper. However, this last version does not represent his opinion nor the European Commission one and the authors will assume any eventual remaining mistake.

² As demonstrated by regular experience in the organisation of regional life shows, which because of transport costs, bottlenecks and delays that usually go with, is already a difficult challenge to take up.

European Cultural Markets and Policies

3. The European cultural market is, de facto, open³, even if some restrictions to free competition do exist⁴. It is a single though still fragmented market, which can easily be explained by what is sometimes called “cultural distance”⁵, largely due, in the European context, to linguistic barriers, but probably not only. Consequently, European producers to date do not enjoy economies of scale similar to US firms, which implies a less competitive position for many Audio-Visual (AV) products (see the analyses by the EC, 2004c).

4. Still there is a political ambition to create a common cultural area. Cultural Policy is a shared competence between the EU and EU Member States, based on the principles of subsidiarity and complementarity. The aim is to supplement and support national policies without seeking to harmonise the legislation of the Member States⁶. This goes back to 1992 to the Maastricht Treaty Article 128 (article 151 of the consolidated EC Treaty), which lays down that actions in the cultural field shall be adopted by Parliament and the Council in accordance with the co-decision procedure, with an additional condition: unanimity is required in the Council. The main objective is obviously to preserve and develop European AV industries through a common organisation of the cultural market (a kind of ‘Cultural CMO’), which is both internally liberalized and externally partially protected. More specifically, the latter purpose is to parry the competitive advantage of the American industry and the monopoly position it enjoys (FERA, 1999). Moreover, in the draft Treaty establishing a Constitution for Europe, one of the objectives under Article 3 is that *‘the Union shall respect its rich cultural and linguistic diversity, and shall ensure that Europe’s cultural heritage is safeguarded and enhanced’*.

5. So far legal restrictions to a free EU cultural market are essentially twofold. The first kind of restriction concerns quotas aimed at preserving the market share of EU producers. The

³ According to FERA (1999), the average market share of American films in Europe was 63.5% in 1997 (see also the graph in our annex 1), whereas the market share of European films in the US only amounted to some 3%. As regards European TV channel programming in 1996, American films accounted for 62.3% of the films shown. To see more on this please go to the European Audiovisual Observatory website, at <http://www.obs.coe.int/index.html.en>. See also some more information of the concentration of the international cultural goods market in UNESCO (2000). Guerrier (2003) suggests that it is important to think of the possible ways to diversify the supply of non-european AV products distributed in the EU.

⁴ In a 2002 resolution on Cultural industries (2002/2127(INI)), the European Parliament inter alia called on the Commission to carry out an in-depth study on a European map of cultural industries to be submitted to the European Parliament and the Council, which will concentrate on cultural, economic, legal, technological and educational aspects, also paying attention to the implications linked to the enlargement of the EU; believes that the map should contain data on employment, intellectual property rights, index of competitiveness, new products and exports. It also urged the Commission to bring Eurostat cultural industries statistics in line with international standards.

⁵ See Galperin (1999) for a brilliant analysis of the tension between economics and culture intrinsic to cross-border trade in AV products. According to him, any cultural industries development outcome in the context of FTAs can be traced to three simple criteria : industrial profile, i.e. scale economies and market concentration, domestic cultural policies and ‘cultural distance’. The latter, measuring the degree of common taste across borders within the FTA area, is decisive to explain the market share dynamics of national industries within the area. For example, within NAFTA, the Mexican did not request to include a cultural exception, contrary to the Canadians, and it appears that mexican cultural industries did resist very well – and indeed some mexican companies have consolidated into large multimedia conglomerates, with the obvious example of Televisa group - since the Mexican people largely maintained their preferences for Latinamerican-type telenovelas.

⁶ We will focus here on european cultural policies; for a detailed analysis of each Member State policy please refer to <http://www.culturalpolicies.net/>

rationale is embedded in the 1989 Directive on Broadcasting⁷, which aims at abolishing restrictions on the free flow of TV broadcasting services within the EU and at harmonizing national regulatory frameworks (to a certain extent). Among the strongest restrictions one must note is the content quotas for European works stipulated in Article 4⁸. European works, according to Article 6, means works originating from EU Member States, works originating from European third States fulfilling certain conditions, and (§4) works that are produced within the framework of bilateral co-production treaties concluded between Member States and third countries provided the Community co-producers supply a majority share of the total cost of the production and that the production is not controlled by one or more producers established outside the territory of the Member States. Some restrictions might also exist regarding radio broadcasting contents within national legal frameworks (e.g. in France the minimum content is 40% of total time). Besides European legislation does not contemplate any restriction to date of media ownership⁹, nor does it include any regulation to ensure diversity of content at the regional level. Moreover, regarding the delivery of cultural services, and particularly live performances, one might wonder what are the concrete difficulties encountered when trying to get EU Member States visas which are indispensable to enter the EU area on a temporary basis (visas are outside of the scope of the GATS). To take an example, artists performing in the French territory are presumed salaried employees ; their entry on any French territory is therefore regulated by the Ministry of Labour. In order to perform they must sign either a work contract or a transfer contract with a local employer. Two different procedures can apply, depending on whether the contract is signed for a specific length of time (fixed-term) or for an unlimited duration (open-ended). However, according to the rules and experience known in Martinique (see annex 4), this may not be an issue of concern, provided the requests are sent sufficiently early in advance ; still these procedures might be considered as too cumbersome and therefore some negotiations might be opened in this area within the EPA negotiations.

6. The second kind of restriction relates to the direct support to cultural industries producers through European as well as State Aid money. Among the main actual European instruments concerned here, one must mention MEDIA, first established in 1987, with three goals: (a) to create transnational synergies to strengthen European AV producers¹⁰, (b) to sustain small and medium size producers through financial and technical support, and (c) to promote linguistic and cultural pluralism in the regional AV market. The MEDIA budget has increased over time from US\$29m (1987-90) to US\$270m (1991-95), US\$510m (1996-2000), 638 m€(2000-06) and it is proposed to be 1 055 m€for 2007-2013 (see EC, 2004c)¹¹. Also concerned is Culture

⁷ The so-called “Television without Frontiers” Directive 89/55/EEC of 3 October 1989, as amended by Directive 97/36/EC of 30 June 1997, see Aubry (2000)

⁸ It reads, “*member states shall ensure, where practical and by appropriate means, that broadcasters reserve for European works (...) a majority proportion of their transmission time*”. Consequently, the Member states are free to settle any proportion percentage equal or over 50%. In the French case it is 60%. In practice, this percentage is calculated over total broadcast time, so that for particular TV programmes such as fictions, the US share is still close to or even over three quarters.

⁹ In terms of mode III provisions in the GATS terminology. General EU competition rules do apply however in cultural industries as in any other economic sector.

¹⁰ The largest component of the MEDIA programme, in terms of budget allocation, has been the Distribution one, with a positive effect on the circulation of European works outside their countries of origin (EC, 2004c).

¹¹ The next MEDIA programme will pay attention to the reduction of imbalances in European AV market between high production capacity countries and countries or regions with low production capacity and/or a restricted geographic and linguistic area (article 1.4c of the Proposal for a Draft Decision, see EC, 2004c). Regarding provisions concerning non-European or non EU countries, the Draft Decision article 8.4 reads “*The*

2000, a framework programme which seeks to promote a common cultural area for Europeans and encourage cooperation between cultural players¹² (167 m€ for 2000-2004). The forthcoming Culture 2007 may present an interesting opportunity for Caribbean countries¹³. Alongside the Culture 2000 programme, in the context of administrative appropriations of the general budget, the European Union may award grants to cover the management and operational costs of organisations working in European cultural interests¹⁴. Besides, many actions are undertaken by EU Member States, local/regional authorities¹⁵ and international institutions such as the Council of Europe.

7. As regards tax policy, every EU Member State settles its own regulations; in particular VAT rates on the sale of products or services vary considerably from country to country according to the type of activity or cultural property (EP, 2001). Tax rebates, e.g. a reduced VAT rate, are offered in the area of cultural goods and services, and usually respect a National Treatment principle¹⁶. Taxation on artists moving between EU countries is regulated by bilateral conventions.

8. The EU enlargement effect on EU cultural markets and policies will be limited. Most of the ten new Member States were already implementing similar cultural policies under a common approach coordinated by the Council of Europe, which since its creation in 1949 has developed cultural activities with a view to defending and extending a plurality of cultural

programme is also open to cooperation with other third countries which have concluded clauses on the AV sector and on the basis supplementary appropriations and specific arrangements to be agreed upon". This might be of interest to Caribbean countries in the EPA context (see below).

¹² Three kind of actions are included: (1) specific annual measures for supporting small partnership projects (50 to 150 000 € per project) involving at least three participating countries; (2) multiannual measures under transnational agreements for supporting highly structured high quality projects (up to 300 000 € per project) with a large european dimension, which includes at least five participating countries in a multiannual transnational cooperation agreement; and (3) special cultural events, such as European Capitals of Culture (between 200 000 and 1m €) and smaller projects such as European prizes, European heritage laboratories, etc. For more details see http://europa.eu.int/comm/culture/eac/index_en.html.

¹³ A new Culture 2007 programme has been prepared by the EC (to be jointly approved by the Council and the EP, see CE 2004b), with a total budget of 408 m€ and it is worth mentioning its three specific objectives and foreseen rules (since these might be relevant to the Caribbean): 1. supporting the transnational mobility of people working in the cultural sector, 2. encouraging the transnational circulation of works and artistic and cultural products, 3. promoting intercultural dialogue. A wide variety of participants should be concerned. Transnational in the EU jargon means internal cross-border effects; however, the proposal also reads "*the programme intends to be more open to participants from third countries, particularly countries covered by the new neighbourhood policy, and to support projects running outside the borders of the EU*" (EC 2004b, p. 7). Article 5 of the Decision Draft Proposal is enumerating eligible third countries, including 'third countries which have concluded association or cooperation agreements which include cultural clauses', which is the case under the Cotonou Agreement (see below). This might be of the utmost importance for what we will suggest below, a strengthened DOM-ACP cultural partnership in the Caribbean in the EPA context.

¹⁴ this comes under line A3042 ; in 2002, 27 organisations were supported in this way with a total budget of over 4 m€, see EC (2003).

¹⁵ Some EU co-funded support to cultural industries at the regional level may appear within EU Member States in the context of 'Objective 1' regions that decide to do so and include it in their SPD (single programming document). Objective 1 regions are those in which GDP per capita is less than 75% of the EU average, which benefit from the European Regional Development Fund (ERDF). All four DOMs actually belong to this category; it is however usually considered that in the actual SPD for Martinique, cultural action was not a priority. Noteworthy still is the building of a big cinema and congress complex in Schoelcher ('Palais des Congrès de Madiana'), which benefited hugely from ERDF.

¹⁶ According to which any tax rebate advantage given to national/European producers are extended to third countries producers.

identities¹⁷. A few countries, which weren't following these policies – including Malta and next EU accession candidate, Romania – are instead implementing national regulations that have similar effects for their national producers; they will simply have to Europeanize them. Poland has a strong AV sector and therefore its position was already close to the EU one. Overall, these countries should be in a position to respect the 'acquis communautaire' in the area of cultural policies without major problems.

9. The European position on trade in cultural goods and services has progressively emerged during the last 15 years. The principle of cultural diversity was once consecrated in the Council of Ministers of October 26, 1999, stating that the EU will ensure, that as in the Uruguay Round, the Community and its Member States maintain the possibility to preserve and develop their capacity to define and implement their cultural AV policies for the purpose of preserving their cultural diversity. The French Coalition for Cultural Diversity, created in 1997 to combat the OECD's Multilateral Agreement on Investment, has been much active in building this position. The Watchdog Committee's main aims are to preserve the capacity of States to set up, develop and adapt their cultural policies in all concerned sectors. For so doing, there is a need for keeping culture outside the scope of international commercial agreements and WTO tailored trade liberalisation. Instead a major objective is to elaborate an international legal instrument (Treaty) encouraging cultural diversity and pluralism. A 'Louvre Declaration' has been drafted at the second international meeting of Cultural Professional Organizations held in Paris in February 2003, and calls for such a Treaty, the preparation of which is actually ongoing under the auspices of UNESCO¹⁸. A special treatment for developing countries shall be welcome within this Treaty.

10. It is worth recalling that at the WTO level, very few Member States undertook commitments in the audiovisual sphere (the EC¹⁹ did not). Whereas other Members notified MFN exemptions, the EC did so in order to propose a more favorable treatment to several cultural products which do not originate in the Community and also to several coproductions in the context of bilateral agreements with third States²⁰. Apart from multilateral trade rules, the legal capacity of States to regulate their cultural markets might also be affected by the contents of the bilateral FTAs they've signed: some countries have agreed on including their cultural markets in FTAs with the US and since then they are no more in a position to implement cultural regulations against US cultural goods and services imports.

ACP cultural industries main characteristics and access to the EU market

11. Generally speaking the constraints faced by African, Caribbean and Pacific (ACP) cultural industries to access the European market relate more to *economic* barriers (high barriers of entry due to scale economies effect, capital requirements, etc.) than to *legal* barriers.

¹⁷ The development of this cultural co-operation is the outcome of an intensive programme of activities undertaken by the Council for Cultural Co-operation (CDCC) and the steering committee on mass media (CDMM). A Cultural Committee is reviewing the cultural policies of member states. Main policies concerned are the European Cross-Border Television Convention and EURIMAGES.

¹⁸ See also Comité de vigilance (2002).

¹⁹ Since the Treaty of Nice, services trade negotiations become the full competence of the EC under article 133 except for trade in cultural and some other services.

²⁰ The EC list of commitments and MFN exemptions is available at http://www.wto.org/english/tratop_e/serv_e/serv_commitments_e.htm#important. The EC last offer of April 29, 2003 in the framework of the ongoing GATS negotiations is downloadable at http://www.europa.eu.int/comm/trade/issues/sectoral/services/wto_nego/index_en.htm

Regarding goods, within the Lomé Convention and now Annex V Articles 1 & 2 of the Cotonou Agreement for the period 2000-2008, products originating in the ACP States shall be imported into the Community free of Customs duties and charges having equivalent effect, and the Community shall not apply any quantitative restrictions or measures having equivalent effect to the imports of these products. Thus any cultural good originating in the CARIFORUM Member States shall entry freely into the EU Market²¹. As regards cultural services, the view of this preliminary study is that the only legal constraints are the above mentioned *Television without frontiers* regulation, and the eventual equivalent regulations for radio broadcasting; and they do not seem to be a cause of concern for Caribbean producers, even if some ideas might emerge relative to this (see below).

12. The competitive position of Caribbean cultural industries is very weak relative to that of big international conglomerates. This is easily explained by the relative or absolute lack of resources which makes a huge difference, particularly in the AV sector, as recalled by Galperin (1999; see quotation at the beginning of this article). This is particularly true for the so-called mass media production, as opposed to the 'fine arts' (painting, literature, performance arts, etc). In addition, Caribbean producers further suffer from many internal weaknesses, which can be traced to the disorganisation of the sector, its underdeveloped structure and relative unprofessional character (Gambini, 2002), not to mention the natural fragmentation of national markets within the whole region.

13. According to the UNESCO (2000) report, cultural goods trade flows in the Caribbean (CARICOM) are unstable, with annual imports varying between \$100m and \$250 m during 1995-98, whereas exports were less than \$25m, thus showing a big trade deficit in this area. The main exports (around three quarters of the total) were 'other printed matter', incl. 'printed, manufactured music', far before 'books' and 'television broadcast receivers'.

14. The EU provides some support to ACP cultural industries to overcome these difficulties, albeit a limited one²², with a particular emphasis on African needs. This cultural cooperation is a clear objective of the Cotonou Agreement (see below) and includes, inter alia, programmes to support decentralized cultural initiatives (microproductions), cultural shows in Europe and in ACP countries, film production and diffusion²³, formation and cultural patrimony. The total fund allocated in this area during 6, 7 and 8th EDF funding cycles has been almost 84 m€ In addition, the EC has approved for 2004 a 1m€ annual work programme that finances pilot projects which promote cultural cooperation with and between developing countries²⁴.

15. The EC should prepare to increase its effort at supporting developing countries cultural industries interests, especially regarding the ACP group, so that its logics of cultural diversity would apply not only to European producers but also to non-European non-dominant cultural goods and services suppliers. Guerrier (2003) suggests that a right approach probably goes through bilateral cooperation offers, including support to cultural production in these

²¹ Of course, some rules of origin issues might emerge. For example to be considered as originating in a ACP country, a CD, when manufactured in a third non European non ACP country (eg. the US), must have at least 60% of its total value actually created in an ACP country/region.

²² see Le Courier n° 194, special edition of september-october 2002.

²³ See <http://www.filmfestamiens.org/cinemasacp/index1.html> for information of activities within the ACP Cinema Support Programme until 2004 ; a new programme to be launched in 2005 is under preparation.

²⁴ It already funded the participation of many ACP artists and professionals to the World Cultural Forum 2004 in Sao Paulo (26 June to 4 July).

countries, development of coproductions, multiplication of festivals, better diffusion within European broadcast of products originated in these countries. Some legal possibilities do exist to tap funds from the future Culture 2007 programme or MEDIA programme in this respect (see above), within projects which would include ACP actors, eventually also including specifically French DOMs (see below for the latter possibilities). Mr Donnedieu de Vabres, French Minister for Culture recently said, in a speech delivered within a Conference on Cultural diversity gathering all EU new Trade Ministers and senior civil servants in July 2004, that “*the international cultural cooperation with less advantaged countries should be reconsidered with a view to support their capacities to access institutional, technical, artistic and financial devices which are necessary to the promotion of their cultures*” (our translation).

The DOMs special case and the prospects for an enhanced cultural partnership with Caribbean actors

16. The cultural sector in the DOMs²⁵ suffers from the same problems mentioned for the ACP one, i.e. disorganisation and an unprofessional character. Several public authorities in Martinique deal with cultural activities, whether through creation aid, production aid, or by helping the distribution of artistic products: the regional Council, the general Council, the Government and the 34 towns all over the island. Despite the human and financial resources dedicated to the cultural sector, the officials in charge of its development usually agree that a sound knowledge of the market of cultural goods and services in Martinique is seriously lacking. No quantitative nor qualitative study has ever been made or ordered to help any decision making process, which could foster the development of the sector. It is therefore difficult to get detailed data about the sector’s economic activity. Such a study would be a clear sign that political leaders of Martinique are ready to consider the creative industries as a real economic sector to develop. Today, it still remains a very isolated sector, close to cultural identity concerns. The business aspect of the sector is very recent. It is carried out by young music and video producers who mostly work with foreign partners in the United States and the Caribbean. This last trend is extremely marginal however and represented by very few actors²⁶. Still the public sector is deeply involved in cultural activities and creative industries, mostly through subsidies and public orders. This is particularly true concerning dance, drama, music and live entertainment.

16. In Martinique the private sector in creative industries is essentially represented by non-profit making organisations and independent artists. Most of the representatives of these associations are amateur painters, musicians, dancers, actors, and photographers, etc. Very few professional artists actually live on income generated by the creative industries.

As an example, *dramatic works* (probably with a few exceptions) are usually subsidized and produced at a loss: in spite of a very small number of spectators locally, local plays are very rarely exported to Guadeloupe or mainland France.

The local *movie-making industry* suffers from the same difficulty, with a very low return on investment, mostly due to the size of the target market, which is mostly local. Cinema production is therefore very rare. A few good films sometimes emerge anyway, which have a clear export potential, as is presently the case with “Biguine”. Actors in this sector mostly work on industrial and promotional films, once again for the local market. A couple of small

²⁵ Départements d’outre-mers. We will focus here on the cultural sector in Martinique, assuming that it is a fairly good representative of the situation prevailing in French DOMs more generally.

²⁶ Don Miguel is one of the few (if not the only one) who import Caribbean videos to broadcast in Martinique.

agencies work in that area. A special commission has recently been created, following a General Council's initiative, in order to encourage foreign film directors to come and shoot in Martinique.

However, Martinique offers a fair number of places and specific events for *performing arts*, with²⁷ more than 3.000 artistic and cultural events every year, about 80 musical restaurants, over 20 night clubs, a yearly local fair in each of the 34 towns of the island, a dozen of cinema screens, about half-a-dozen yearly or biennial festivals (Fort de France, Marin, jazz, dance, etc...). About half-a-dozen places are clearly identified as Meccas for culture: Fonds Saint Jacques Cultural Centre, Atrium, CMAC, Sermac, Théâtre Municipal, The Congres House, etc.

Those same places are also used for exhibitions of *objets d'art, graphic and fine arts*. Although there is an art school in Martinique, very few painters and sculptors live on their art. Only four small art galleries are listed on the island.

About thirty professional *photographers* have set up their own businesses, ten of them being specialized in advertising and industrial photography. Exhibitions of this art for the general public are extremely rare.

As regards the *distribution networks* for cultural products, very few retailers can be listed:

- Two major bookstores provide the readers with books, audio and video CDs of all kinds (Librairie Antillaise and Librairie Alexandre). They represent about ten different sales outlets;

- Fewer than twenty small record dealers sell audio and video CDs in Martinique. Those products can also be found in the six supermarkets of the island.

Music production is probably the most dynamic activity of the local creative industry. Although it is difficult to get precise figures to measure the activity, the main representatives of the sector agree that the number of productions increases, while, paradoxically, sales are falling (about 50% less during the last holiday period compared to the same period in 2003²⁸). Two major companies share the market (Pastel Prod and Hibiscus Record), along with about 50 other much smaller producers. Very few of them are professional producers; they declare themselves as such once they own a home studio.

17. DOMs audiences tend to tune in to either home made or French programmes, in addition to big third countries suppliers (from the US mainly, also from Brazil), but so far very few to ACP Caribbean shows, which leads to very few trade flows. Despite the small size of the local market, exports of products from the creative industry in Martinique are very low compared to imports. However, one must not overlook a data problem regarding imports. Indeed, most of the local production of CDs is recorded or manufactured abroad (either in mainland France or the United States), which implies that the 'local' CDs are recorded as

²⁷ According to Sacem (Société des auteurs, compositeurs et éditeurs de musique) data. Sacem is the French institution in charge inter alia of collecting the payment of resale rights (for more information see www.sacem.fr).

²⁸ As it currently occurs on a worldwide scale, the audio CD industry is in times of crisis. The average price of a CD is about 16,90€ in local stores, whereas Internet surfers (especially the younger) can either download all their favourite songs for free, or get pirated copies for under 5€ This growing underground market accounts for the slump that is currently observed in that sector. Only the elderly and true music lovers still continue to pay for the proper price of CDs.

imports. As a result, the more dynamic the activity gets, the higher imports figures climb, whereas exports are not affected, thus increasing the trade deficit, which is already high! (See table below)

Imports value (2003)	21.350.987 €
Exports value (2003)	2.356.728 €
Balance	- 18.994.259 €
Covering rate (2003)	11%

Source: Customs

Books are the most important import product (more than 2 million copies in 2003). It is also the first export product (about 700.000 copies that same year).

Audio materials are second on the list: 48,714 CDs were imported in 2003, while 1,127 of them were exported.

Our trade relations (both imports and exports) mostly involve France and the French Overseas Departments (especially Guadeloupe), which account for about 95% of the imports of cultural products and 99.6% of the exports of our cultural products (see annex 2 for more data). Direct export to other European countries is not significant. Most other import CDs (9% of total imports) and a few books (1.4% of total imports) are from the other EU States, with very low flows (see table below).

	Imports from the EU MS (other than France), absolute figure and % of total imports per product range	Exports to the EU MS (other than France), absolute figure and % of total exports per product range
Audio materials	9%	None or almost none (n-an)
	198.411 €	
Music instruments	12.5%	(n-an)
	6.610 €	
Books	1.4%	(n-an)
	271.567 €	
Objets d'art	0%	(n-an)
Video materials	0.5%	(n-an)
	1.100 €	

Source: Customs

Our trade relations with Caribbean countries are almost none, and mainly consist of importing “objets d’art” (especially from Haiti, the Dominican Republic and Cuba), and exporting video materials to Haiti. The amounts are very low anyway, and there may exist more significant flows with an unrecorded trade done through the movement of natural persons.

	Imports from the Caribbean, absolute figure and % of total imports per product range	Exports to the Caribbean, absolute figure and % of total imports per product range
Audio materials	0.6%	(n-an)
	13.045 €	
Music instruments	(n-an)	(n-an)
Books	(n-an)	(n-an)
Objets d’art	17%	(n-an)
	25.153 €	
Video materials	(n-an)	19.4%
		2.673 €

Source: Customs

18. Like any other product entering a French Overseas Department, cultural products are taxed at Customs depending on the kind of merchandise and their actual purpose on the territory. There are two possibilities. Either through the ordinary procedure: this applies to any merchandise that enters the market for immediate selling. It requires a Customs declaration, through the Single Administrative Document, which generally implies the payment of two border duties, which are levied ad valorem on CIF prices (see following table); however, the ACP-EU Cotonou Agreement, as did the Lome Convention, provides for a duty-free entry of most ACP products in Martinique (as in any EU market), including cultural ones. In addition, an internal tax called ‘octroi de mer’ is to be paid on all sales, with possible exemptions/rebates for local production.

	Books	Audio materials	Video materials	Paintings	Sculpture	Craft
Local tax “Octroi de mer”	Exo.	15,00%	15,00%	10,00%	20,00%	15,00%
Customs duties	5,68%	11,00%	11,00%	4,06%	11,00%	11,00%
Additional import duties	1,50%	2,50%	2,50%	2,50%	2,50%	2,50%
Value Added Tax	2,10%	8,50%	8,50%	8,50%	8,50%	8,50%

Source: Customs

Alternatively, the temporary importation of cultural products may be considered. In this case a particular procedure applies to any merchandise, which is temporarily imported from a third

country into the European Union. It applies for exhibitions or testing, as long as the original shipper in the third country remains the owner of the merchandise. Examples of products concerned: audio and video materials (when sent before their launching on the market, for dubbing, copying, promotional or free samples), professional equipment when necessary (musicians, photographers, dancers, actors ...), objets d'art, etc. Two different procedures may be used for temporary entry (see following table).

Temporary importation totally free of tax	Temporary importation partly free of tax
<p>Maximum stay: 24 months.</p> <p>Payment of a guarantee equivalent to 100% of customs duties and 5% of VAT.</p> <p>A streamlined procedure can be applied for simplification when the products are accompanied by a representative, for associations, festivals, exhibitions, etc. In this case, the procedure consists only of a stock list of the merchandise, with no need to either fill the Single Administrative Document or pay for the guarantee.</p>	<p>It is used for other products, when the temporary importation totally free of tax procedure is not possible.</p> <p>Full payment of VAT.</p> <p>Payment of Customs duties at the end of the stay, the taxable amount consisting of 3% of the duties per month of use.</p>

If the merchandise is not exported back to the country of origin and remains in the Territory, it is taxed as mentioned in the ordinary procedure. Besides the Customs duties, Countervailing duties apply, except for sales after an exhibition, sales after testing, audio and video materials. In other cases, the minimum payment is 20 €

What cultural industries strategy towards the EU markets should be developed within the EPA context?

20. The Cotonou Agreement refers to Cultural Development in Article 27, which reads: *“Cooperation in the area of culture shall aim at (a) integrating the cultural dimension at all levels of development cooperation; (b) recognising, preserving and promoting cultural values and identities to enable inter-cultural dialogue; (c) recognising, preserving and promoting the value of cultural heritage; supporting the development of capacity in this sector; and (d) **developing cultural industries and enhancing market access opportunities for cultural goods and services**”.*

21. The Directives for the negotiations of EPAs with ACP countries and regions approved by the European Council in June 17, 2002, include a paragraph on the scope for trade in services (§4.1) which reads (personal translation) *“The agreements will provide for a distinct treatment of AV services **within specific cooperation and partnership cultural agreements** between the parties. These agreements will guarantee the possibility of the EU and its MS as well as ACP states to preserve and develop their capacity to elaborate and implement their AV and cultural policies aimed at preserving their cultural diversity, whereas acknowledging, preserving and promoting ACP cultural values and identities, in order to support intercultural dialogue through an **improvement of the possibilities of access of ACP cultural***

goods and services to the market, in conformity with the provisions of Article 27 of the Cotonou Agreement".

22. What could be the objectives of EPA negotiations for cultural industries development in the Caribbean? We might draw an answer, or simply identify a few elements at this stage – a true negotiating strategy should be elaborated in close dialogue with non-state actors (NSA), by distinguishing between legal barriers and natural barriers. Natural barriers such as isolation, diseconomies of scale, fragmentation, lack of capital and so on call for a reinforced support through the development of a strong partnership. The existence of legal barriers, which are few regarding the access to the EU cultural market, still call for some new ways of thinking. Before making recommendations for a strategy in the EPA context, let us indicate that if the EC wording when justifying the cultural diversity relates to pure “cultural heritage and diversity” concepts, thus avoiding mention of strong economic and trade interests, it remains to be seen what would be the best language to be used within the EPA talks in this regard, bearing in mind that in any negotiating table there’s no place for feelings or vague ‘moral’ arguments, but rather for request and proposals that are technically precise and well determined²⁹.

23. Looking forward on the possible ways to reconcile economics and culture in this context, it is worth going back to supply and demand basics, and following this way we would suggest two simultaneous approaches:

- (i) develop measures and activities aimed at increasing the European demand, including in the DOMs, for cultural products from the Caribbean, and simultaneously increase the DOM access to the Caribbean markets for the sake of building strong win-win solutions;
- (ii) support the supply of Caribbean cultural goods and services, including those of the DOMs, with a view to a better matching of this increased demand

24. The first approach would include the objective of increasing the Caribbean content of TV and radio broadcasting in the EU, through several means, inter alia, a better share of broadcasting time in ‘regular’ (free of charge) national TV programmes, as well as the inclusion of a Caribbean broadcast programme in satellites or cable TV packages. These programmes would develop the demand for Caribbean cultural products (music, films, shows, arts, etc.), since the viewers would discover more of these products and develop a bigger taste for them, thus increasing demand. Such an approach would fit with the objective of regional integration of national cultural markets. This regional integration objective appears much more technically feasible in mass media culture than in performing arts, for obvious reasons linked to the costs implied by insular fragmentation³⁰. The second approach would enhance the production of cultural goods and services from the Caribbean through direct support to producers, a better-structured institutional environment, and so on.

25. In terms of support, it may be important here to think of the possible partnerships with the French DOMs, as regards a closer relation aimed at: (a) developing reciprocal flows of cultural goods and services in their own markets (ACP and DOMs), thus progressing towards

²⁹ See for example Bilal S. and Laporte G. (2003), “How David prepare to talk to Goliath. South Africa’s experience of negotiating trade with the EU”, ECDPM Discussion Paper n°53, November.

³⁰ As will be recalled below, the movement and activity of artists across the region is both very expensive and sometimes technically difficult in the Caribbean (when maritime freight is irregular, and air cargo very limited to small craft that cannot transport big elements). Without strong will, backed by sufficient funding, no truly ‘Caribbean regional’ product can emerge. (See more on this below).

an extended regional cultural market, and increasing mutual knowledge and understanding within the English and the French Caribbean; and (b) establishing an action plan for a joint effort to develop Caribbean products (both ACP and DOMs) presence in mainland European markets. This joint approach will be very helpful in overcoming the strong diseconomies of scale faced by local producers through the mutualisation of costs as well as the possibility to jointly tap several available funds (EDF, ERDF, INTERREG, future ones to come in the 'wider neighbourhood' strategy, etc.), some of which may be negotiated during EPA talks (see below)

26. Some past or actual experiences demonstrate the pertinence of such a common DOM-ACP approach in the Caribbean, to name a few good examples: West Indies Jazz Band³¹, Blue Mango³², Michelle Henderson³³... The success is always there when quality is high; there is thus an obvious potential for jointly produced cultural products and services in music, films, theatre, modern dance, etc. The main bottleneck to overcome is always a shortage of capital, especially on the ACP Caribbean side, to cover the high costs caused by the physical fragmentation between islands.³⁴ Some musical instruments sometimes cannot be transported within small aircraft, transport between French DOMs and Jamaica is particularly cumbersome, sometimes even impossible! As regards the promotion of live performances in Europe, the experience of French DOMs shows that more often than not festivals cover the DOMs costs of participation only from Paris, which implies the searching for additional budget to cover the transatlantic travel costs, which are usually high. Other difficulties may stem from linguistic barriers, particularly for publishing³⁵, but one might hope at the same time that 'cultural' distance remains low between the French and English-speaking Caribbean, thus being an advantage for this desirable partnership, to which Universities in the region could better contribute.

27. In this perspective, it is important to consider the necessary enhancement of dialogue between the public sector (State and regional authorities) and non-state cultural actors. A good institutionalized process of dialogue may be warranted here in order to avoid too much dispersion of actions, and conversely to develop a well planned and structured cultural development strategy, which would be backed by sufficient political support and the accompanying funding. Taking account of what precedes regarding joint action and a strengthened ACP-DOM partnership, we would suggest the establishment of a joint ACP-DOM Council for cultural development, the role of which would be two-fold: (a) stimulate partnerships through a strong dialogue and coordination between both sides non-state actors (NSA) and public institutions, (b) elaborate, secure funding and implement projects of ACP-DOM joint cultural development in the Caribbean region as well as in mainland Europe. Such a Council might receive EU funds from several sources, to be identified in the future: Culture 2007 programme (see above), Interreg, and new tools for the 'wider neighbourhood' of outermost regions in the context of the new EU territorial cohesion policy (EC 2004a). The

³¹ A formidable orchestra of 16 musicians from 7 countries of the Caribbean, back in the early 90's, which finally disappeared because of lack of resources. Still two excellent CDs remain.

³² A recent very encouraging jazz-fusion experience between Martinique's and Saint Lucia's much talented musicians.

³³ The Dominican singer, whose last CD was produced by a DOM firm; she doesn't seem to be so well known in French DOMs though (except for these people that go to the Dominican Creole music festival). I personally discovered her in a Caribbean airline magazine... and never saw/heard her in Martinique broadcasting devices...

³⁴ Quite clearly what needs to be done for joint group of artists is to meet the financial requirements of common regional residence, eventually a moving one.

³⁵ Apparently even Derek Walcott's writings are hard to be found in French language, which is a definitive pity and should be easily corrected...

EC has already endorsed the value added of a regional integration of cultural markets and sectors within ACP countries³⁶, and the new approach for a stronger partnership for outermost regions obviously calls for the inclusion of French DOMs in such a Caribbean regional market for cultural goods and services. Furthermore, the involvement of NSA is of particular importance since projects which fail to include the private sector views and needs are doomed to have limited impact on the regional cultural industries. To be complete, the legal constraints which might face the establishment of such a joint Council must be identified. The French DOMs will have to get the approval from the national authorities to join an international institution, however modest the latter would be³⁷.

28. As regards actual legal trade barriers, which are of course more established against an ever increasing dominance by big US cultural conglomerates than against ACP productions, some parallelism with Special and Differential Treatment (SDT) in goods trade might be relevant, or is worth a deeper analysis. If EU-Caribbean co-productions, as any other co-production between EU Member States and non european third countries (see above point 5), are already eligible for the 'inquota' content in European broadcast, under certain restrictive conditions, Caribbean producers may try to benefit from a SDT which would ease these restrictions, i.e. provide for a better television market access of AV products originating in the Caribbean, eventually including some relaxed related rules of origin. This might apply to co production with Canada/the US³⁸, provided these rules of origin are designed to exclude simple trade diversion from the US.. Further analysis is required to evaluate the potential benefits of such special and differential treatment (SDT), but if the latter are substantial enough, then SDT in cultural areas could become an interesting objective of EPA negotiations, and the core principle of the 'specific cooperation and partnership cultural agreement', as requested in the EC EPA negotiating mandate. Besides, at the multilateral level, within the GATS actual negotiations process, the EC has received only 20 requests regarding content in cultural industries, including, it appears, one from Grenada. It remains to be seen what the exact objectives of the Grenadian request in cultural markets are, and if they would fit with any Caribbean regional negotiating position to come regarding cultural trade, be it at the WTO level or at the bilateral one, including the EPA.

Conclusion

29. There is certainly much scope for an increased market share of Caribbean cultural industries in the EU markets, although many constraints might limit any concrete result. The best way to overcome these constraints is through a much strengthened partnership with EU actors. Co-operation with DOMs is particularly relevant here since it would not only lead to gains in economies of scale, but also to the possible increased support from several EU funds. Hence after too much time lost staying back to back – notwithstanding the many efforts to change this undesirable result of historical heritage and organizational distance – Caribbean and DOMs producers would gain much in the broader regional market as well as in the EU one by increasing their face to face relations, and by going hand in hand to built stronger common positions in distant markets, including the mainland EU one.

³⁶ See for example http://www.delcaf.cec.eu.int/fr/dossiers_speciaux/dvpt_culturel.htm, where the EC calls for a regional approach to cultural support to be preferred in the ACP context, taking into account the small size of the local markets.

³⁷ Some room for manoeuvre does exist within the French legal system (i.e. the 'Loi d'orientation outre-mer') which allows for the preparation and signing of international agreements by the DOMs under certain conditions.

³⁸ Or any other western country ; affiliates in the Caribbean could be concerned as well.

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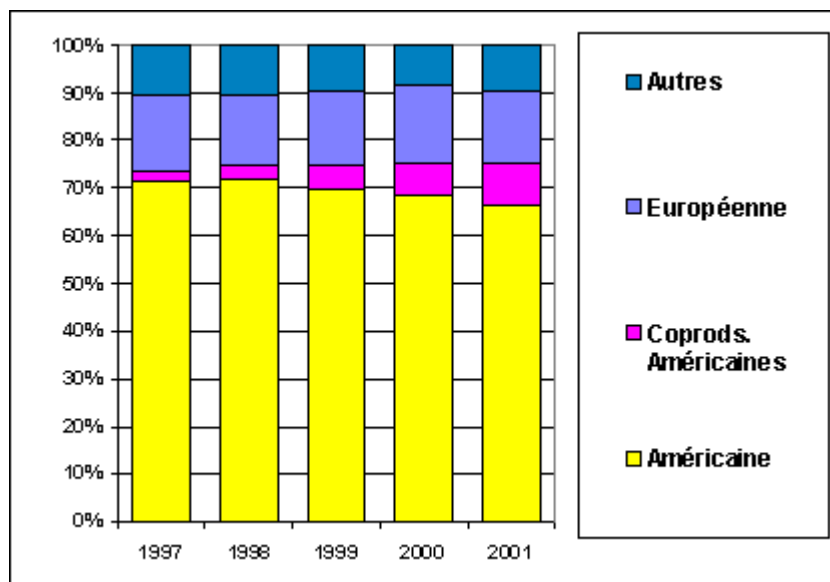
People interviewed

- Mrs Fanny AUGUIAC, Director of CMAC (Comité Martiniquais d’action culturelle)
- Mr Max AUGUIAC, independent expert, Caribbean issues, in charge of an on going study on the maritime transport between Martinique and neighbouring islands.

- Mr Julien GUERRIER, DG Trade, Services Trade, European Commission.
- Mr Remco VAHL, DG Trade, ACP Unit, European Commission.
- Mr. Serge VERT-PRE / Counsellor for dramatic works and the movie industry / DRAC
- Mrs Violetta LIBAR / Assistant of the Counsellor for performing arts / DRAC
- Mrs. Suzy LANDAU / Director of the international relations and cultural department / Fort de France Town hall
- SACEM / Assistant manager
- Mr. Philippe FERRANT / Customs officer in charge of regulations / Customs
- Mr. Frantz RIAM / Freight agent / Geodis Martinique
- Direction of Point Rouge Publishing house
- Librairie Antillaise Book store / Customer service

Annex 1: Imported American, European and other in Western Europe TV channels programming (1997-2001)

(percentage of total diffusion time, source : ETS / European Audiovisual Observatory)



Annex 2: Cultural Trade flows (music CDs, musical instruments, books, objets d'art, Films) in Martinique, 2003.

Import and Export values in Euros

Import and Export quantities in Kilograms

Libellé	Pays	Zone	Valeur Import	Quantité Import	Valeur Export	Quantité Expo
Disques musique	Allemagne	Union europ.	4 794	144	0	
	Belgique	Union europ.	185 398	848	0	
	Canada	Amérique	33 982	151	0	
	Chine	Asie	3 334	37	0	
	Espagne	Union europ.	1 886	50	0	
	États-Unis	Amérique	0	0	0	
	États-Unis	Amérique	4 493	32	0	
	États-Unis	Amérique	105 170	803	0	
	France		3 786	102	0	
	France		37 834	1 075	0	
	France		1 745 289	44 223	4 678	4
	France		7 314	214	0	
	Guadeloupe		0	0	15 234	6
	Guadeloupe		0	0	0	
	Japon	Asie	0	0	0	
	nd		7 057	56	0	
	nd		5 617	46	0	
	Pays Bas	Union europ.	4 712	2	0	
	Royaume Uni	Union europ.	0	0	0	
	Royaume Uni	Union europ.	1 621	10	0	
	Saint Martin	Caraïbe	0	0	0	
Saint Martin	Caraïbe	13 045	921	0		
Suisse		0	0	0		

Disques	TOTAL		2 165 332	48 714	19 912	1 1
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Disques	SOLDE		-2 145 420			
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Libellé	Pays	Zone	Valeur Import	Quantité Import	Valeur Export	Quantité Export
	Allemagne	Union europ.	5 292	225	0	0
	Belgique	Union europ.	1 318	32	0	0
Instruments de musique	États-Unis	Amérique	33 043	1 960	0	0
	France		13 045	921	0	0
	nd		0	0	0	0
	Taiwan	Asie	0	0	0	0

92	TOTAL		52 698	3 138	0	0
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92	SOLDE		-52 698			
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Libellé	Pays	Zone	Valeur Import	Quantité Import	Valeur Export	Quantité
Livres	Allemagne	Union europ.	142 102	63 071	0	
	Autriche	Union europ.	0	0	0	
	Belgique	Union europ.	43 705	2 429	0	
	Brésil	Amérique	0	0	0	
	Canada	Amérique	92 329	8 987	0	
	Chine	Asie	2 836	579	0	
	Corée du Sud	Asie	1 264	1 390	0	
	Espagne	Union europ.	32 327	16 050	0	
	Etats-Unis	Amérique	216 554	23 835	0	
	France		18 074 281	1 973 656	20 421	
	France		37875	6 078	0	
	Guadeloupe		0	0	2 280 276	
	Guyane franç.		0	0	11 874	
	Haïti	Caraïbe	0	0	0	
	Hong Kong	Asie	6 087	2 262	0	
	Indonésie	Asie	0	0	0	
	Italie	Union europ.	35 863	8 325	0	
	Japon	Asie	23 548	628	0	
	Maroc	Afrique	4 584	750	0	
	nd		7 857	189	0	
	nd		6 704	170	0	
	Nvelle Calédonie	Pacifique	0	0	6 750	
	Pays Bas	Union europ.	8 384	806	0	
	Pologne	Union europ.	0	0	0	
	Royaume Uni	Union europ.	9 186	1 642	0	
	Saint Martin	Caraïbe	0	0	0	
	Singapour	Asie	16 046	8 905	0	
	Thaïlande	Asie	1 460	570	0	
	Vénézuela	Amérique	0	0	0	
Livres	TOTAL		18 762 992	2 120 322	2 319 321	
Livres	SOLDE		-16 443 671			

Libellé	Pays	Zone	Valeur Import	Quantité Import	Valeur Export	Quantité
Objets d'art	Belgique	Union europ.	0	0	0	
	Brésil	Amérique	1 365	82	0	
	Canada	Amérique	0	0	0	
	Chine	Asie	1 295	710	0	
	Cuba	Caraïbe	13 110	100	0	
	Espagne	Union europ.	0	0	0	
	Etats-Unis	Amérique	0	0	0	
	France		115 128	596	2 732	
	Guadeloupe		0	0	1 002	
	Haïti	Caraïbe	6981	963	0	
	Inde	Asie	4 008	80	0	
	République dom.	Caraïbe	5 062	180	0	
	Suisse		1 439	81	0	

Objets d'art	TOTAL		148 388	2 792	3 734	
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Objets d'art	SOLDE		-144 654			
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Libellé	Pays	Zone	Valeur Import	Quantité Import	Valeur Export	Quantité
Films	Guadeloupe		0	0	11 088	
	France		55 555	6 721	0	
	Italie	Union europ.	1 100	100	0	
	France		164 922	6 082	0	
	Haïti	Caraïbe	0	0	2 673	

Films	TOTAL		221 577	12 903	13 761	
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Films	SOLDE		-207 816			
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Annex 4: Rules for entry of artists within French West Indies in order to perform

A/ Temporary work permit

This authorisation is delivered by the office representing the Ministry of Labour in Martinique, after a petition has been filed by a local employer with the following documents :

- Fixed-term contract for each employee
- Official application (a letter) with details about the number of performances programmed, their nature, the locations, ...
- List of artists (names and surnames) with their valid passport numbers

Once approved (after about 15 days to one month), the list of artists is sent to the French Embassy or consulate in the country of origin to launch the visa procedure.

About 99% of the applications for temporary work permits are accepted.

For all local employers who organise more than 6 shows a year, specific licenses are required along with the first documents:

1. for the places where the performance takes place
2. for the producer of the show
3. for the distributor of the show

Each entry on a French overseas department requires a specific application; i.e. if an artist is invited for a tour in Martinique, then in Guadeloupe, Paris (or any city in mainland France), Belgium and Germany, 5 different applications must be filed for each country visited. The authorisation that is given in Martinique is valid only in Martinique.

B/ Permanent introduction procedure

This applies to Caribbean or foreign artists to whom a local employer offers an open-ended contract.

This procedure is much more complex and longer than the temporary work permit procedure. It lasts between 3 and 4 months as it is treated both locally, in Guyana French Guiana only or depending on the DOM??? (the French International Migration Office) and in Paris (the Ministry of Foreign Affairs).

First of all, a job search announcement must be published at the French national employment office for at least 3 consecutive weeks and without success.

After that first step, a number of questions have to be answered, both about the employer and the future employee. Three pictures of the employee, along with copies of their diplomas and work certificates must be added in the application file.

About 80% of the applications for permanent introduction are usually rejected.

