

TRADE-RELATED ISSUES MATRIX

Negotiating Issue	Scope of Issue	CARIFORUM Position	EC Position
1. Competition Policy	<p>The Parties to the EPA recognize the importance of free and undistorted competition in trade relations. The Parties acknowledge that anti-competitive business practices have the potential to distort the proper functioning of markets and generally undermine the benefits of trade liberalization.</p>	<p>Negotiations on competition policy have resulted in the crafting of consensus text that would provide for exchange of information and enforcement cooperation between the European Commission and the CARICOM Competition Commission and the Dominican Republic competition authority (both yet to be established). In recognition of nascent institutional experience of CARIFORUM authorities in executing competition policy, both sides recognize the importance of a period of confidence building.</p>	<p>The EC has agreed to the position put forth by the CARIFORUM States.</p>
<ul style="list-style-type: none"> • 	<p>Public Enterprises with Special or Exclusive Rights (including designated monopolies):</p> <p>This provision is intended to reflect the fact that public or private monopolies may be designated or</p>	<p>The inclusion of public enterprises under this chapter has caused some amount of disagreement among CARIFORUM States. Some require that coverage be included, while others are against it.</p>	<p>The EC proposes the coverage of public enterprises in this chapter. It has also demonstrated its willingness to take into account the relevant provisions of the revised Treaty of Chaguaramas, thereby allowing COTED to prescribe special rules</p>

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	<p>maintained once this is in accordance with the respective national laws. At entry into force of the EPA, such companies shall neither enact nor maintain any measure that distorts trade in goods or services between the Parties to the Agreement. Such enterprises shall be subject to the rules of competition in so far as the application of the rules does not obstruct the performance, in law or in fact or the particular tasks assigned to them.</p>		<p>and/or exemptions for particular sectors.¹</p>
<p>2. Intellectual Property Rights</p>	<p>The Parties to the EPA view the inclusion of intellectual property rights (IPR) clauses as essential to fostering innovation and creativity as well as improving competitiveness. It is also seen as a crucial element in the economic partnership as it seeks to promote sustainable development and the</p>	<p>Negotiations on intellectual property (IP) are framed by the common understanding of the need to build on Cotonou Agreement Article 46² and the contribution of IP to economic development. CARIFORUM States have agreed with the EC proposal that the EPA provisions should address the trading of counterfeit and pirated</p>	<p>The EC has a similar position to that of CARIFORUM on this issue.</p>

¹ It is important to note that the Chaguaramas Treaty obliges coverage.

² Article 46 of the Cotonou Agreement recognizes the need to ensure an adequate and effective level of protection of intellectual, industrial and commercial property rights, and other rights covered by the TRIPS including protection of geographical indications, in line with the international standards with a view to reducing distortions and impediments to bilateral trade. It also underlines the importance of adherence to the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) to the WTO Agreement and the Convention on Biological Diversity. All other relevant international conventions on intellectual, industrial and commercial property shall also be considered in line with the Parties' level of development.

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	<p>gradual integration of CARIFORUM States into the world economy.</p>	<p>products. CARIFORUM has also agreed to apply the flexibilities inherent in multilateral agreements to promote both public health and rural livelihoods.</p> <p>Discussions are ongoing on the scope and modalities of commitments beyond those currently enshrined in the TRIPS and the relationship between IP commitments and fostering innovation and creative industries.</p>	
<ul style="list-style-type: none"> • 	<p>Innovation:</p> <p>Key among the objectives of this chapter is to:</p> <ol style="list-style-type: none"> 1. Promote the process of innovation, including eco-innovation, of enterprises located in the Parties; 2. Foster competitiveness of enterprises and in particular small and medium-sized enterprises (SMEs) of Parties; 3. Facilitate the production and commercialization of innovative and creative products between Parties; 4. Contribute to the promotion 	<p>Discussions on innovation have been pursued on the basis of CARIFORUM stated priorities, viz:</p> <ul style="list-style-type: none"> -How to increase creativity, innovation and the growth of innovative enterprises and the trade in innovative products; -How to improve national innovation systems; -How to encourage coherence of innovation policies within CARIFORUM and the development of a CARIFORUM innovation system; -How to provide a regulatory framework conducive to innovation; 	<p>The EC position is similar to that of CARIFORUM on this issue.</p>

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	<p>of technological innovation and to the transfer and dissemination of technology and know-how.</p>	<p>-How to encourage collaboration between the EU, CARIFORUM and their respective enterprises in the development of innovation and the trade in innovative products.</p>	
<ul style="list-style-type: none"> • 	<p>Standards Concerning Intellectual Property Rights:</p> <p>This provision pertains to the various types of intellectual property rights coverage and relevant international agreements/conventions to be utilized in the EPA.</p>	<p>CARIFORUM States are in agreement with the EC position as it pertains to the various types of intellectual property rights coverage and the international conventions/agreements to be utilized in the EPA.</p>	<p>The following forms of intellectual property rights coverage are to be outlined in the EPA: copyright and related rights, trademarks, geographical indications (although the EC proposal has not been finalized in this area), industrial designs, patents, plant varieties, genetic resources, traditional knowledge and folklore. The enforcement mechanism for IPRs is also to be extended coverage under the EPA.</p> <p>Recognition should also be placed on the relevant international agreements/conventions pertaining to intellectual property in this regard viz, the Rome Convention (1961), the World Intellectual Property Organization (WIPO) Copyright Treaty (1996), the WIPO Performances and Phonograms Treaty (1996), the Paris Convention (1967), the Protocol Relating to the Madrid</p>

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			Agreement Concerning the International Registration of Marks (1989), Trademark Law Treaty (2006), et cetera.
3. Public Procurement	The Parties recognize the importance of transparent competitive tendering for economic development with due regard being given to the special situation of the CARIFORUM economies.	<p>CARIFORUM States maintain that the consensus text should include provisions such as the scope of government procurement, transparency requirements, including the publication of methods of government procurement, selective tendering, et cetera, to be employed by the procuring entity.</p> <p>A few outstanding issues remain unresolved such as the entities to be covered by the GP provisions (e.g. Ministries, Departments and Agencies) and the threshold above which commitments would become applicable.</p>	A difference of opinion still remains on the scope of provisions vis-à-vis market access requirements. However, both sides have agreed to consider GP market access only once the negotiations on transparency have been concluded.
4. Environment Provisions	The Parties reaffirm that the principles of sustainable management of natural resources and the environment are to be applied and integrated at every level	CARIFORUM has accepted the EC proposal that...	The EC proposes that each Party shall seek to ensure that its own environmental and public health laws and policies, provide for and encourage high levels of

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	of the partnership, recalling Articles 1 and 2 of the Cotonou Agreement ³ .		environmental and public health protection, and that these measures must not be applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties. In like manner, it must not act as a disguised restriction on trade between the Parties to the EPA.
<ul style="list-style-type: none"> • 	<p>Dispute Settlement Mechanisms:</p> <p>This provision pertains to the mechanisms in place for the settlement of disputes in the event of breach of environmental provisions.</p>	<p>The CARIFORUM position is that neither Party may have recourse to dispute settlement under the EPA for any matter arising under the environmental provisions. This is mainly due to the fact that traditional trade sanctions may be applied in the event of breach.</p>	<p>The EC has responded by proposing several cushioning measures to include three distinct tiers of a non-sanctions based approach to the dispute settlement provisions involving consultation and dialogue at the bilateral level, a Committee of Experts and review by the CARIFORUM-EC Joint Consultative Committee respectively. The use of these measures as a means for resolving any disputes that may arise would need to be exhausted without resolution, prior to either Side</p>

³ Article 1 of the Cotonou Agreement affirms that the partnership be based on the objective of reducing and eventually eradicating poverty consistent with the objectives of sustainable development and the gradual integration of the ACP countries into the world economy. It also states that the principles of sustainable management of natural resources and the environment shall be applied and integrated at every level of the partnership. Article 2 focuses on the fundamental principles that shall be exercised in the partnership and include the following: equality of the partners and ownership of the development strategies, participation, the pivotal role of dialogue and the fulfillment of mutual obligations and differentiation and regionalization.

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			initiating EPA dispute settlement procedures.
5. Social Aspects	This provision is intended to highlight the importance of cooperating on internationally recognized social and labour standards in order to achieve the objectives of the Agreement.	CARIFORUM supports the EC's call for the recognition of these core international social and labour standards.	<p>This trade-related issue is slated to include reaffirmation of internationally recognized core labour standards, freedom of association and the right to collective bargaining, the abolition of forced labour, the elimination of worst forms of child labour and non-discrimination with respect to employment.</p> <p>The EC has clearly pointed out that if a non-binding approach were taken with regard to these substantive obligations, then this would result in a non-binding approach to development cooperation in this area, which would be unfavorable to the CARIFORUM States.</p>
6. Personal Data Protection	This chapter essentially obliges both Parties to establish personal data protection regimes that will stimulate investment confidence and facilitate an increase in trade in	Agreed ad referendum ⁴	Agreed ad referendum

⁴ This suggests that the negotiating issue has been accepted on a provisional basis, pending final approval by governmental authorities.

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	sectors that will require the transfer and/or processing of personal data, e.g. internet-based commerce.		
7. Cooperation and Dialogue on Good Governance	The Parties confirm their attachment to the principle of good governance and the rule of law as outlined in Article 9 ⁵ of the Cotonou Agreement. This provision is slated to encompass cooperation and dialogue on taxation and financial issues related to trade and investment flows between the Parties.	It is important to note that despite CARIFORUM's mandate not to negotiate this subject, ⁶ the EC continues to put this issue on the table.	In response to CARIFORUM's position, the EC has revised several of its former positions/proposals, essentially moving from a strong regulatory approach to the current approach which focuses on cooperation and dialogue between both Sides on the relevant issues.
Current Payments and Capital Movements	Under this provision, the Parties undertake to allow all payments for current transactions between residents of both Parties to be made in freely convertible currency with no restrictions to such payments. The Parties also undertake to impose no restrictions on the free movement of capital relating to direct investments made in accordance	Agreed ad referendum	Agreed ad referendum

⁵ Article 9 of the Cotonou Agreement deals with the essential elements regarding human rights, democratic principles and the rule of law, and the fundamental element regarding good governance. Article 9(1) states that respect for all human rights and fundamental freedoms, including respect for fundamental social rights, democracy based on the rule of law and transparent and accountable governance are an integral part of sustainable development.

⁶ The decision of the Heads is that “the Region should not engage in negotiations on the issue of good governance as it relates to taxation.”

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	with the laws of the host country and investments established in accordance with the provisions of the EPA.		