

PRESENTATION

AT

**THE PRIVATE SECTOR ORGANISATION OF JAMAICA
CHAIRMAN'S CLUB FORUM**

“MAKING THE MOST OF THE EPA”

**JAMAICA PEGASUS HOTEL
KINGSTON
JAMAICA**

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When Caribbean Heads of Government met in Georgetown, 7th December, 2007 to give a mandate to our negotiators to conclude a new Economic Partnership Agreement (EPA) with the European Union, we did so conscious of the historical significance of the moment, but even more conscious of our obligations to this, and to future generations.

We were also in no doubt about the complexity and the sheer enormity of the task about to be undertaken.

We were well aware that a new EPA would effectively transform the character of the economic relationship between the Caribbean and Europe that had been embodied in Four LOME Conventions – a relationship that had come to be celebrated as the only working model of North-South Cooperation ever devised.

We would have been equally aware that notwithstanding the advantage that the LOME Conventions had been intended to confer on ACP countries because of their special preferential arrangements, the ACP's share of the European market had fallen from 6.7% in 1976 to 2.8% by 2000.

We could hardly have ignored the fact that significant aspects of the LOME regimes, which bore directly on the fortunes of important economic sectors in the Caribbean,

had already been subject to successful challenge by other countries within the Dispute Resolution Mechanisms of the World Trade Organisation (WTO).

In a broader sense we could not help but be aware that the days when Europe could confer on Caribbean societies special trade benefits that it was not prepared to grant to other developing countries, without making any benefits consistent with international trade law and agreements, were over.

Having regard to the dynamics of contemporary Caribbean development, it was difficult for us to escape the conclusion that the old order which focused our relationship with Europe on the trade in goods only, and the grant of aid, bore no sensible relation to the requirements of modernizing and transforming societies.

In our transforming economies, the impetus for growth and development has increasingly come from the expansion of service sectors, especially, and other areas of activity which are internationally competitive, without benefiting from preferential trade arrangements, and from the vitality of economic enterprises which had been designed, from the outset, to meet the most rigorous international standards.

Clearly, the best interests of the Caribbean require that these attributes, which have been at the centre of such Caribbean development as has taken place, should also be

at the core of any new relationships we seek to put in place with our economic partners across the global society.

The complexity of the task of successfully putting into effect a new, modern economic relationship with Europe represented itself in many respects.

Through this new relationship, the Caribbean would be drawn into a programme of economic liberalisation, for the first time, with a set of developed societies – a programme of liberalisation whose dimensions had to be carefully designed and managed. There were fiscal effects that had to be addressed, since the EPA would entail, from a Caribbean viewpoint, the removal of import duties and taxes of an equivalent nature. There were production effects that had to be faced, involving new challenges for old industries which had been protected by non-reciprocal preferences, balanced by the opening of new market access opportunities for sectors which would, now, for the first time, have negotiated access to previously closed European markets.

And of course, any programme of economic liberalisation between a group of developed and a bloc of developing countries raised the spectre of an uneven clash of corporate systems. In a Caribbean context this is of paramount significance, since liberalisation exposes Caribbean enterprises to competition in and for their domestic

market from companies which are much larger, more technologically sophisticated, and in some instances, strongly supported and subsidized by their States.

Taking all of these various factors and forces into account, it was clear to us that an appropriately designed EPA for the Caribbean would be one that has long enough transition periods to allow the fiscal regimes to be adjusted, made provision for satisfactory levels of protection for sensitive industries, accepted as non-negotiable the requirement that European States and economic enterprises, should on each and every matter, over the course of implementation have to shoulder more substantial obligations than their Caribbean counterparts, and one which opens new avenues and forms of development cooperation to enable it to become an instrument to help build competitive enterprises and spur private sector development in our region.

In its design, the EPA meets these essential tests. It is now for us to make the most of it.

Providing a mandate to negotiate and conclude an Economic Partnership Agreement was made even more complex and challenging because decisions had to be made on matters and on disciplines where international trade rules and laws are loose, or where we do not have equivalent regional regimes in place in the Caribbean.

To be precise, the new trade arrangements covering the trade in goods had to be designed to comply with the requirements of Article XXIV of the GATT to include “substantially all trade.” In respect of services, the terms of Article V of the GATS apply and speaks of substantially all sectors. Yet, there is no universal agreement as to what these concepts mean, and how they should be applied.

For this reason, the Caribbean has sought, during the Doha round, to obtain more flexibility within the multilateral framework for Regional Trade Agreements, and more especially so to have Article XXIV amended and applied, to make provision for longer transition periods and greater exclusions, and generally to give legal certainty to an area whose boundaries are still nebulous.

The effort has thus far failed. In negotiating an EPA with a transition period extending to 25 years in some instances, the Caribbean has pulled the maximum flexibility out of an existing loose Article XXIV, and has succeeded in its bilateral arrangements where it has failed in its multilateral dealings.

The requirements of managing a modern economy, especially as it concerns its cross border relations, mandate that matters such as investment and the other Singapore issues have to be taken into account.

Again, these are areas where there are no agreed international rules and standards have been devised under WTO auspices. In some instances, our own arrangements for the CSME have yet to conclude regional regimes on some of the disciplines concerned. For instance, we have a regional Investment Code that awaits agreement and signature by Caribbean States.

However Caribbean States, at the bilateral level, have for some time now had in place with major trading partners investment treaties, treaties in respect of tax avoidance, and other such disciplines where there are no agreed international rules.

A new EPA with Europe, to be an effective modern instrument to support economic development had to treat to these matters, without compromising Caribbean interests in future multilateral negotiations, or undermining our regional economic movement.

I suggest that the EPA has been designed to accomplish these ends.

If I may turn specifically to the essential features of the EPA, the negotiation of a new EPA and the date of its initialing (December 31, 2007) were occasioned by the need for Caribbean countries to make its arrangements for the trade in goods with Europe meet the requirements of Article XXIV of the General Agreement on Tariffs and Trade (GATT).

Essentially, the former one-way duty-free trade regime is to be replaced by a reciprocal free-trade arrangement, under which the Caribbean immediately and indefinitely locks in its duty-free access for its goods to the European in return for which it phases in, over a period of 25 years, the removal of duties on 86% of its imports from Europe.

A trade agreement in goods alone of this nature confers hardly any major new net benefits to our region in its relationship with Europe. At best it gives permanence to our duty-free access for our Goods in Europe, and protects such access from challenge within the WTO.

An Economic Partnership Agreement between the Caribbean and Europe would have to go significantly beyond that, in terms of the scope of new market access for other sectors and entities whose functioning are vital to the Caribbean, for a new arrangement to be judged to be meaningful in the context of the developmental requirements of the contemporary Caribbean.

By including new trade arrangements in respect, especially of trade in services and related disciplines, the EPA recommends itself as a more meaningful tool for development than LOME-type arrangements. Let us focus on its services dimensions.

Beginning in 1994 with the Uruguay Round, countries have been engaged in the process of liberalising their markets for services across four modes of supply. Under the built-in Agenda for multi-lateral trade negotiations then established, countries were expected to make additional offers to liberalize beyond their 1994 commitments. And so they have.

The measure as to whether the region has received a reasonable and potentially beneficial deal with Europe in its negotiation involving its trade in services can be determined by whether the EU's Commitments to us under our EPA are significantly greater than its General Agreement on Trade and Services (GATS) commitments, or its conditioned services offer in the Doha Round, or its services commitments in its bilateral relations in areas where the Caribbean has special, vital market interest.

Judged by such a standard, on balance it would be fair to say that the Services Component of the EPA has been conceived to give the Caribbean a special window of opportunity in a sphere where it is immediately competitive. It is now left to the leadership and the institutions of the region to take advantage of that window of opportunities.

Under Article V of the GATS, for a Services Agreement to be WTO compatible, it must succeed in liberalising "substantially all sectors".

Under the EPA, the European Union has agreed to open more than 90% of its service sector to market access by Caribbean service providers, covering areas such as Business Services, Communications, Construction, Distribution, Financial, Environmental, Tourism, Transport and Recreation Services. The Commitments will start when the EPA enters force for all states except for the new members of the EU.

Cariforum countries have made a lesser commitment to liberalise – 65% in the case of the LDC's and 75% for the MDC's. The sectors proposed for liberalisation by the Caribbean are largely those for which the countries are seeking investment or new technologies, as well as sectors that are important to create economic opportunities in the form of out sourcing contracts from European firms. The main sectors that most Cariforum countries have liberalised in the EPA are business services, computer and related services, research and development, environmental services, management consultancy, maritime transport, tourism and entertainment. Some of the commitments will be phased in over time to enable some member countries to address sensitivities at the national level.

Beyond the general scope of the commitment to liberalise across sectors, the effects of the EPA will be principally felt in respect of the arrangements made regarding the supply of services under specific Modes.

Of special interest to the Caribbean must be the programme of liberalisation that is to be undertaken under Mode 4, concerning the temporary movement of natural persons.

Given the human resources focus of our development, this is an area which the Caribbean must seek the maximum advantage for its service providers in its cross-border trade agreements.

Generally under the GATS, Mode 4 commitments allow for the temporary movement of 4 categories of services.

- : **Intra-corporate Transfers of Managers and Specialists**

- : **Business Visitors and Service Sales Persons;**

- : **Contractual Service Providers; and**

- : **Other Categories.**

In addition to these categories, the EU has committed to allow investors to engage Graduate Trainees for every service sector subject to liberalisation, and has agreed to

make provision for Independent or Self-employed professionals to have access to its markets.

For us, the bottom line is that the EU's commitments on the movements of Natural Persons (Mode 4) in the EPA are significantly greater than its GATS commitments and its conditioned service offers under the Doha Round or in any of its bilateral agreements, thereby granting better treatment to Cariforum countries than any other WTO members.

To be specific, the EU has granted market access for employees of Contractual Service Suppliers in 29 sectors, including Management Consultancy Services, to be able to enter the EU to supply services once they get a contract.

The EU has also agreed that Independent Professionals and Self-employed persons can have access to 11 service sectors, including Management Consulting Services.

In many of these sectors, the EU has not made offers in the WTO and has indicated that, should it do so, the offers will be subject to numerical ceilings. In the case of the EPA, the EU's commitments are not limited by quotas, although they will be subject to some economic needs tests mainly in the newer EU States.

As regards the arrangements for Contractual Service Suppliers, provision is made by 25 EU States for liberalisation of their Entertainment Services market.

This level of market access for entertainment is the first for any trade agreement of the EU. Significantly, there are no quotas or limits on the number of natural persons who can enter under this commitment. Caribbean artists, musicians, and other cultural practitioners and their crews who are registered under businesses will be able to send their members or employees to almost all EU States to supply entertainment services.

As compared to the unprecedented and in fact unique set of commitments made by the EU to open its markets to accommodate the temporary movement of many categories of Caribbean Services providers, the Caribbean has limited its offers to liberalise under Mode 4 largely to Intra-Corporate Transfers of Management and specialised personnel.

The benefits, both absolute and relative, that can redound to the Caribbean economy and to subsectors such as our Management Consultancy Services, are potentially large.

To realise this potential benefit, Caribbean Governments and institutions representing professionals and other service providers must pay serious and sustained attention to matters concerning the implementation of the EPA.

One key area concerns that of Mutual Recognition and Accreditation of Professionals.

Current EU directives on Mutual Recognition of diplomas only apply to EU nationals, and the right to practise in one EU Member State does not grant the right to practise in another.

The EPA provides for the initiation of meetings between professional bodies of Cariforum and the EU for the negotiation of mutual recognition agreements no later than three years after entry into force of the EPA. It is crucial that institutions such as yours become fully geared to deal with this.

At the same time, professional services sectors in the Caribbean will need to expedite the regional accreditation process in the CSME, and start to organise themselves regionally with the aim of preparing for mutual recognition discussions with their European counterparts.

The harmonised or equivalent definition of occupations will have the benefit of setting a standard which the EU will be able to compare with their own qualifications to facilitate the process by which the skill set of non-traditional specialised professionals who want to enter their market are assessed.

Secondly, there is the issue of visas. During the negotiations the matter was revised, since the grant of visas could constrain market access for service providers in the same way that health and other standards have been used to constrain market access for goods.

The EU has made it clear that visas are immigration issues and as such remain under the jurisdiction of EU Member States.

The EU therefore had no authority to enter into negotiations on the removal or modification of visa requirements.

Follow up action on this matter is required at the Governmental and institutional level in Caricom, recognizing that countries should and do take account of their services commitment in trade agreements in setting out and pursuing their visa policy.

In the light of the market access provisions contained in the EPA, this matter commends itself as one requiring the closest possible coordination between Caribbean Governments and professional associations.

In addition, the arrangements for liberalisation of services will be attended by the application in certain spheres and many countries of means tests. Information about

these requirements need to be widely circulated among and understood by members of professional bodies seeking opportunities in the European market under EPA.

Caricom service providers may also face stiff challenges when they test the European market because of intense competition from recently acceded EU Member States, since in many instances the reservations to opening the European market for services have come from the recently acceded states. Specific diplomatic engagement with these countries to harmoniously address this matter is something that the region should attach its highest priority.

In addition to the scope and generosity of the provisions relating to services, the EPA breaks new and important ground in the extent and the forms of development cooperation for which it provides. This programme of development cooperation is aimed in large measure at stimulating the development of private sector capacity, building new institutional capacity across all sectors, supporting small and medium enterprises, financing innovation, and supporting the emergence and evolution of new forms of business, and new ways of doing business in the new sectors of the Caribbean economy.

Some of the initiatives that the Jamaican Government and private sector have brought on stream, with the collaboration of the European Union, recognise the crucial

important of these new aspects of development cooperation in the EPA, and their superiority as instruments for development, as compared to the Aid provided under previous LOME Conventions.

This allows me to make one of the major points I wish to leave you with in Kingston.

It is that while the EPA is replete with opportunities for Caribbean economic operators, the real challenge will lie in giving operational effect to its legal commitment.

The sooner the region, and Jamaica gear themselves to make the most of the EPA by perfecting their strategies for implementation, the more benefits will be realised.

Sadly, however, we now live in a region where the “industry of complaining” has become both our biggest pastime as well as, in the mind of some in certain quarters, our biggest productive activity.

The crescendo arising from the lamentations of the naysayers and the nitpickers, about the “defects of the EPA” are in such an environment, likely to dominate in the public domain, and stymie efforts to implement.

For instance, there will be complaints about rules of origins, though the EPA makes provision for a review in 5 years. There will also be claims that the EPA does not earmark large new sums of development financial support, although there are large unspent balances in the Caribbean's favour, going back to nine previous EDF's.

However, the region must approach the implementation of the EPA with a clear strategic focus. It is not a perfect instrument. We have not attained everything that we sought. But it is far superior to what went before. And it is far superior to the next best alternative – GSP treatment.

But above all, we must seek to get a dividend out of the fact that since the EPA is the first and only modern economic arrangement of its scale and kind that Europe has managed to negotiate with any group of developing countries, it is in Europe's interest to make its EPA with the Caribbean stand for something in its international dealings.

Indeed, it is in Europe's interest to make our EPA succeed. It should be up to us to be equally inspired.

Having said that it should be recognized that the successful implementation of the EPA will impose two additional obligations on Caribbean societies.

The first is to design and to fully implement domestic policy and institutional reforms to make the most of an economic liberalisation programme of the character of an EPA.

This is most obviously the case in relation to Jamaica.

Jamaica arguably stands to benefit more than any other Caribbean State from the services provision of the EPA.

It is immediately obvious that no other Caribbean country stands to gain more from the stimulation of its cultural industries.

Jamaica can also now, as a result of the EPA, seriously contemplate transforming itself into a major export service economy and an important international business and financial centre.

This would amount to the major paradigm shift in Jamaica's post-Independence development, and it is within your reach.

It would interestingly put Jamaica on the same development path that has made all of the difference in places such as Barbados and the Bahamas.

However, to realize this gain, there has to be clarity of purpose that this is where Jamaica needs to and wants to go, and sound policies and new institutional arrangements to take you there.

You need to do more on the institutional arrangements that have to be put in place, and the type of policies that will get the job done.

Secondly, the gains that Jamaica stands to realize from working in concert with the region and giving leadership to the negotiations of an EPA merely illustrate that the region needs Jamaica, and Jamaica needs the region.

We now have in place an EPA whose provisions are, in some instances, more advanced than those under the CSME, because work on the Single Economy has been stalled, and is at large.

It is a nonsense to have an Investment Agreement embodied in our EPA with Europe, but to allow our own Regional Investment code, which was intended to have been one of the first Agreements signed on our way to the Single Economy to remain in draft. In addition, many aspects of the initiative to create the Caribbean Single

Economy simply involve the harmonisation, simplification and regional coordination of the reporting and regulatory environment that businesses face across the region.

There will be no loss of sovereignty. Rather there will be savings of millions of dollars in costs to our private sector if the essential aspects of the Plans of Action for the Single Regional Economy are put into effect and carried out with the fierce urgency that the situation now demands.

It is urgent that Jamaica give some leadership to this matter.

It was always intended that the CSME would challenge and make more competitive the operations of Caribbean enterprises by confronting them with faster, deeper and of broader liberalisation in their regional market, arising from the CSME, than they would have to face as a result of the commitments we enter in our bilateral and global arrangements.

Here lies the essential link between the programme to create the CSME, and the work on our new external economic realities. However, the link is being broken.

Already, aspects of the EPA are in advance of our CSME arrangements. This was not intended, and cannot be sustained.

The situation can now get worse.

Before us is the immediate prospect of negotiating a new, modern relationship with Canada.

In addition, the region's economic relationship with the USA, has for a few years now, been in a state of contingency because of our inability to secure a WTO waiver for our CBI benefits.

This state of contingency can only lead to a significant diversion of investment and production from the Caribbean if we do not put an EPA type relationship in place with the USA.

Our region's overall success will require Jamaica's leadership of our external negotiation. But it will equally require Jamaica's commitment to work with the rest of the region to ensure that the forms and process of liberalisation we agree to in our external relations are at least matched by those we have in place in our regional dealings.

My last meeting as a regional leader was to Chair the Special Meeting of Heads to give a mandate to conclude the EPA with Europe.

I had hoped to have been in the position to help support its implementation, especially by using my lead responsibility for the CSME, to ensure that a regional economy is created that can better accommodate the provisions of a modern economic instrument such as an EPA.

The vagaries of the democratic process have determined otherwise.

But you must be assured that I will remain an advocate for progress in the Caribbean, and I would wish you in Jamaica who have given such leadership to the endeavour to build, in our times, a genuine post-colonial economy, to remain steadfast to the cause.

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