



OFFICE OF TRADE NEGOTIATIONS

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# SPECIAL OTN UPDATE

## THE OFFICE OF TRADE NEGOTIATIONS - THE YEAR IN REVIEW

At the end of the first quarter of 2009, the CARICOM Heads of Government took a decision to incorporate the Caribbean Regional Negotiating Machinery (CRNM) into the CARICOM Secretariat as a Specialized Department. Under the new name of Office of Trade Negotiations (OTN), the restyled CRNM was in operation leading the negotiations with Canada by the close of 2009.

The incorporation involved new institutional relationships between the OTN and the wider Community Organs. As a Department of the Secretariat, the OTN reports to the Council for Trade and Economic Development (COTED) which gives it guidance, and defines its negotiating mandate as authorized by the CARICOM Heads of Government. It reports through the Secretary-General of CARICOM.

Apart from these structural changes and in contrast with its predecessor, the OTN now has responsibility for all Community external trade negotiations. The

OTN's work programme has followed that which was established by the CRNM in the beginning of 2009. There have been a number of successes and milestones in this time and highlights of these are outlined below.

### Highlights of 2009

#### EPA

The CARIFORUM-EC Economic Partnership Agreement (EPA) was signed in October 2008. Provisional application took effect on December 29, 2008. However, a number of elements in the Agreement require specific action in order to make them operational. As a consequence, since the signing of the Agreement, a considerable degree of OTN's technical effort has been directed to monitoring and following up on such elements of the Agreement.

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In contrast with the CARICOM Secretariat's EPA Implementation Unit established in February of this year, the OTN post-signing EPA tasks pertain mainly to the private sector. It has also involved facilitating a fuller understanding of the opportunities offered by the Agreement. As part of this exercise OTN extended assistance to the Bahamas in meeting its commitment to submit an offer on Services and Investment to the European Commission (EC) by June 2009.

Consultations were also held with Haiti with the aim of assisting it to become a Signatory to the Agreement. Haiti, the only CARICOM member state which qualifies internationally as a least developed country (LDC) has experienced difficulties in dealing with a number of natural disasters and the impact of the global financial crisis. As an LDC, Haiti's access to the EU goods market was secured under the Everything but Arms (EBA) program which is the EU's special generalized system of preferences for LDCs. However, in recognition of the additional opportunities available under the EPA, particularly in the case of trade in Services, Haiti opted to be party to the agreement. It signed the EPA on December 14 2009.

A working group of legal officers and technicians, led by the OTN, worked on CARIFORUM's proposals for the Rules and Regulations to govern the institutional organs of the EPA. These bodies have operational oversight of the EPA. Such organs include the Joint Council and the Trade and Development Committee. The first meeting of the Joint Council was scheduled to take place in mid 2009 but is now likely to be convened in early 2010.

It is necessary to give effect to the provisions such as regional preference in the Agreement, especially as these affect intra-CARIFORUM relations. The

regional preference provision obliges CARIFORUM states to grant to each other any more favourable treatment which they have agreed to grant to Europe. Under this provision, different timelines have been agreed for CARIFORUM LDCs on the one hand and the MDCs on the other to implement this arrangement. However, under this arrangement CARICOM is not obliged to grant CARICOM preferential treatment to the Dominican Republic. The reason is that the rights and privileges to which CARICOM member states are eligible under the Revised Treaty of Chaguaramas have not been conferred on Europe. However, the regional preference provision does compel CARICOM and the Dominican Republic to finalize the structuring of their commitments under their Free trade Agreement during their ongoing bilateral negotiations. The OTN has been assisting in this regard.

The OTN also continued its awareness-building programmes on the EPA which targeted both the private and public sectors particularly within the CARICOM LDCs. This type of outreach was implemented in order to enhance the capacity of member states to implement their obligations under the Agreement and to assist the private sector in the identification of opportunities which arise from the Agreement.

CARIFORUM, through the instrumentality of the OTN, has been sharing information and experiences with other ACP regions on EPA. Notable fora at which this has been done include the:

1. 8<sup>th</sup> Meeting of ACP Chief Negotiators in October ;
2. ACP Trade Ministers meeting in

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November; and

3. CARIFORUM-SADC Regional Workshop on EPAs in September 2009 in South Africa.

The organization also completed the first draft of the trade and tariff data tabulations for each CARIFORUM Party, in fulfilment of the data requirements of the WTO Transparency Mechanism for Regional Trade Agreements (TM), in respect of the completion of the notification process of the CF-EC EPA.

This Mechanism provides for early announcement of new negotiations to conclude a regional trade agreement (RTA) or the early announcement of the signing of a new RTA. Furthermore, the Mechanism provides for notification of all RTAs to the WTO. The process of notification requires that on the basis of factual presentation, the RTAs are reviewed with a view to assessing its compliance with the relevant WTO rules. RTAs such as the EPA fall under under Article XXIV of General Agreement on Tariffs and Trade (GATT) and Article V of the General Agreement on Trade in Services (GATS). These RTAs are reviewed by the Committee on Regional Trade Agreements.

Due to capacity constraints across CARIFORUM Member States the region did not meet the initial 1 June 2009 deadline for submitting the data to the WTO TM for RTAs. Some CARIFORUM member states are currently in the process of reviewing and validating the data under the first draft and it is anticipated that the final submission of data will be made to the WTO in January/February 2010.

## WTO

Though progress in the Doha Round was anticipated, no substantive developments were achieved with respect to the negotiations. However, OTN continued to facilitate training of member states' negotiators and policy makers.

A watching brief was also maintained in order to promote and protect the special interests addressed in the last versions of the Draft negotiation texts. Analysis of the 2008 Draft Texts revealed that the interests of the Region, particularly as they relate to the Small Vulnerable Economies (SVEs), Small Island Developing States (SIDS) and vulnerable producers of bananas and other primary products, have been safeguarded.

In the context of the WTO negotiations on Trade Facilitation, the OTN successfully partnered with the WTO Secretariat and UNCTAD in the conduct of National Self Assessment of Trade Facilitation Technical Assistance and Capacity Building Needs for selected CARICOM countries. The self-assessment exercises resulted in the establishment of multi-stakeholder national task forces for trade facilitation in the majority of CARICOM countries, and in improved participation and articulation of positions by CARICOM Member States in the Trade facilitation negotiations.

Director General, Ambassador Gail Mathurin and the OTN team supported CARICOM member states during the Seventh WTO Ministerial Conference (MC7) held November 30 – December 2 2009. Though that Ministerial was not aimed at facilitating discussion on the substantive issues of the negotiations, it did allow CARICOM an opportunity to safeguard regional interests in the Doha Round, and to engage key players in bilateral discussions and

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WTO Director General Pascal Lamy, as well as members of the African Caribbean and Pacific (ACP) Group of countries.

The MC7 allowed countries to express reaffirmations about their commitment to concluding the Doha Round in 2010. To this end, a stock taking process is scheduled to take place in early 2010. It is also anticipated that an informal Ministerial may follow this stock taking process. Nonetheless, there is considerable pessimism regarding member states' ability to conclude the Round in 2010. Amidst the previous calls to action and the deadlines to effect the conclusion of the Round, technical work relative to the negotiations has been sustained. However, in order to break the impasse in the negotiations, particularly in the Agriculture and Non-Agriculture Market Access (NAMA) theaters, a political mandate is needed to arrive at a palatable compromise amongst the WTO members.

It is not clear at this juncture that there is sufficient political will to transcend the political rhetoric. The United States has been identified as a key player to shift the status of the negotiations. However, the 2010 US midterm elections which are scheduled to take place in November 2010 are likely to create political uncertainty at the domestic level which would affect the level of ambition on the US side and their willingness to make concessions in the Doha Round.

At the same time, the business of deepening trade relations in the absence of a Doha deal is proceeding apace. Notwithstanding the general proliferation of bilateral free trade agreements, during the MC7, the completion of a new South-South agreement amongst 22 large developing

countries (not including China) to reduce tariffs on each others' manufactured goods was announced. Such an agreement is legitimate under the Enabling Clause provision of the WTO rules. The conclusion of this agreement sent an important signal that developing countries are becoming more organized with the aid of South-South agreements – deemphasizing their dependence on a Doha deal in order to secure wider market access.

The protracted Doha Round is creating a crisis of legitimacy for the WTO and for the international community with respect to the ability to give effect to the Doha Development Agenda. The WTO may be regarded as a special club where membership is based on an ethos and a related set of rules which can be changed should its members agree. At the moment, these rules reflect a belief that freer trade is beneficial to all countries and that members should work to progressively remove the barriers to trade. The Doha Development Agenda reflects an evolution in that ethos to the effect that the rules need to be modified in order to ensure that developing countries can increase their participation in and benefits from the global trading system. Failure to conclude the Doha Agenda would therefore be an indictment on the WTO as an institutional organ and more importantly on all its members.

For CARICOM and other small developing countries, as the global financial crisis continues to evolve, there is a risk that a sustained procrastination of these WTO negotiations could result in a breakdown in the tentative consensus amongst WTO members regarding the accommodation of their special and differential treatment vis-à-vis the configuration of their liberalization commitments. The OTN will continue

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to provide assistance to CARICOM member states in 2010 to ensure that their interests are represented and safeguarded in this forum.

## **Canada**

Technical preparations to launch the CARICOM–Canada negotiations accelerated in earlier part of 2009. In response to the need to consider carefully the development dimension a task force was convened by the then CRNM.

The task force's mandate was to agree on the objectives and guiding principles which should inform the development of specific proposals in relation to the treatment of development in the negotiations with Canada. Additionally, the task force commenced on the identification of specific development co-operation priorities which could be expanded into a menu of demands for development support and co-operation. It further identified a cluster of issues for the purpose of organising the drafting of specific proposals. The recommendations were transmitted to the Council on Trade and Economic Development (COTED), and the Conference of CARICOM Heads for consideration and were later appended to the Draft Negotiating Text.

The Draft Negotiating Text, which outlines the negotiation mandate and guidelines, was approved by the CARICOM Heads of Government in the third quarter of 2009 following a consultation process which was implemented at the national level across the CARICOM region.

The exploratory discussions of the negotiation process culminated in the convening of a September meeting between the CARICOM

Ministers of Trade and the Minister of International Trade of Canada, the Honorable Stockwell Day. That meeting was a necessary precursor to the formal commencement of the negotiations as it allowed the Ministers to finalize the scope, structure and schedule of the negotiations.

Subsequent to the completion of a round of meetings of the Technical Working Group (TWG), the first Round of negotiations with Canada was convened in November.

The Canadian Side was receptive to hearing proposals from CARICOM on the treatment of development in the negotiations. Since the First Round, CARICOM has been clearer on the level of work which must be completed in order to advance the negotiations further and to engender further convergence.

## **Other Bilateral Arenas**

The OTN also contributed significantly to the regional effort to secure CARICOM's preferential access to the US market under the Caribbean Basin Economic Recovery Act (CBERA). The US Federal legislation of the US-Caribbean Basin Trade Partnership Act (CBTPA) was extended until 2010 by the US Congress in May 2008. Congress' approval of the CBTPA extension brought some comfort to Caribbean exporters. Nonetheless, since the September 2005 expiration of the WTO waiver on CBERA, which also provided legal coverage of the CBTPA under the WTO, the US was unsuccessful in securing a renewal. Consequently, the Region's trade relations with US lingered under a shroud of legal uncertainty. However, after a sustained lobbying effort, CARICOM was happy to receive news of the renewal of the CBERA waiver which was finalized

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in March 2009.

Whilst attention was devoted to hemispheric matters such as the Dominican Republic (DR)-CARICOM Agreement and the Costa Rica-CARICOM Agreement, most of the work undertaken in this regard has been in pursuit of satisfying the regional preference obligations enshrined in the EPA.

### **Other OTN Activities**

In February this year the organization was appointed by the CARICOM Ministers of Finance and Planning as a member of the Task Force on the Global Financial Crisis. The OTN contribution included an assessment of the extent to which protectionism was increasing during the financial crisis.

The organization also revitalized its Professional Trainee Program (PTP) which, due to funding challenges, had been dormant for a number of years. The PTP is considered important to the development of the Region's knowledge capacity in the area of trade policy and it is anticipated that the revitalization of this program will continue to strengthen the region's capacity in trade policy particularly at the national level, and improve regional representation in a number of trade negotiating fora.

In October, the OTN implemented the Memorandum of Understanding between the Caribbean Congress of Labour (CCL) and the then CRNM, which was signed in February 2009. This was facilitated through the convening of a meeting between OTN's Director General Ambassador Gail

Mathurin and the principals of the CCL, including the President, Ms. Jacqueline Jack and the General Secretary, Mr. Lincoln Lewis.

The MOU was designed as a mechanism to facilitate greater dialogue and meaningful exchange between the OTN and the CCL on matters pertaining to regional external trade negotiations and policy. The OTN anticipates that this template will be used to improve relations with other Non-State Actors (NSAs) within the Region from a wide range of constituencies such as the Environment constituency.

OTN's outlook for 2010 anticipates greater emphasis on the analytical technical work related to the trade related aspects of climate change. It is anticipated that improved dialogue with the Environment constituency will assist the OTN in that undertaking and at the same time facilitate the improvement of this constituency's participation in the related discourse and shaping of external trade policy. In the future, the OTN also anticipates that similar MOU's will also be fostered with other NSA constituencies.

The OTN also contributed to the discourse on a number of trade related issues. Discussions on the relationship between trade, trade negotiations and food security have been taking place in the last quarter of the year. In December 2009, led by Ambassador Mathurin, the OTN, in association with WTO, IDB/INTAL, co-hosted a regional seminar on development and trade. The aim of the seminar was to improve regional knowledge capacities with respect to the WTO system. Participants from across the region were sensitized to the nexus between trade and development and reviewed the WTO special and differential treatment (SDT) work

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programme, the development dimension of the Doha Round of negotiations, and the Aid for Trade initiative.

## **OTN's Outlook for 2010**

The year has been an eventful one for the OTN. Energies in the year ahead will be focused primarily on continuing the CARICOM-Canada negotiations. Furthermore, as the Doha Round continues interminably, the OTN will continue to extend support to CARICOM member states to ensuring that the region's interests are heard in the WTO negotiations. Technical work will continue to be directed at deepening relationship with the MERCOSUR group.

It is anticipated that the financial crisis's negative impact on the Region will persist. In its capacity as a member of the Task Force on the Global Financial crisis, the OTN will continue to do its part in assisting the Region to weather the storm. Though the financial crisis will compel the observance of financial prudence and discretion, the OTN will maintain its prioritization of its outreach with key stakeholders as the negotiations in different arenas evolve.

Vis-à-vis the implementation of the Region's external trade agenda, the OTN remains optimistic about the region's outlook in 2010 and beyond.

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