



Programme:	<i>Technical Assistance to the Integration to the Multilateral Trading System and Support to the Integrated Framework</i>
Country/Region:	ACP Caribbean States
Project title:	Support to CARIFORUM States with their submission of required data to the WTO Trade Policy Review Division as it relates to the CRTA consideration
Source of Financing:	Third Programme Estimate - Activity n° 082-13

ANNEX II: TERMS OF REFERENCE

1. BACKGROUND INFORMATION

1.1 Beneficiary

ACP CARIFORUM Member States

1.2 Contracting Authority

The Contracting Authority for this project is the Programme Management Unit (PMU) of the ACP MTS PROGRAMME on behalf of the Regional Authorising Officer for the European Development Project N°2013/318-040.

1.3 Relevant Background Information

1.3.1 Regional Background

The Forum of the Caribbean Group of African, Caribbean and Pacific States (CARIFORUM) is the body responsible for promoting and coordinating policy dialogue, cooperation and regional integration at the regional level with the EU. These consultations and activities are undertaken within the framework of both the Cotonou Agreement between the ACP and the European Union and the CARIFORUM-European Union (EU) Economic Partnership Agreement (EPA).

The 16 CARIFORUM Members are Antigua and Barbuda, The Bahamas, Barbados, Belize, Cuba, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, St. Vincent and the Grenadines, Saint Lucia, Suriname and Trinidad and Tobago. All participating states with the exception of Cuba are signatories to both the Cotonou Agreement and the CARIFORUM-EU EPA. In this regard, they benefit both from regional resources under Caribbean Regional Indicative Programmes (CRIP) financed by the European Development Fund (EDF) and preferential trade arrangements through the EPA.

The Council of Ministers of CARIFORUM is the highest decision-making body of CARIFORUM where each Member State is generally represented their Minister of Foreign Affairs. The executive management of CARIFORUM is undertaken by the CARICOM Secretary-General who is responsible for the overall management of the CRIP and also acts as the main Caribbean interlocutor with the EU on its development and implementation. Supporting the Secretary-General is the CARIFORUM Directorate in delivering key results pertinent to the development cooperation relationship between the CARIFORUM States and the European Union. That body has two units, namely, the EPA Implementation Unit and the Development Cooperation and Programming Unit.

The signing of a comprehensive Economic Partnership Agreement with the EU on 15 October 2008 and its notification process to the WTO under Article XXIV pose



several challenges to the CARIFORUM external trade agenda as it constitutes the first time the region has completed a reciprocal FTA with an industrialized trading partner. The concerns with respect to impact of tariff liberalization in terms of both reduced domestic protection and blighted fiscal revenue still resonate within its Members. Nevertheless, implementation of the EPA has advanced while both CARIFORUM and the EU have expressed understanding for the challenges faced by Caribbean members.

The EPA's regional preference clause also results in a redefinition of the CARICOM trade relationship with the Dominican Republic – the region's largest economy. Fifteen of the CARIFORUM States are already Members of the WTO and the remaining one currently seeks to accede to the Organisation. This action will therefore reinforce the policy position taken by CARIFORUM States to fully participate in the Multilateral Trading System.

1.3.2 Multilateral Background

The WTO Committee on Regional Trade Agreements (CRTA) was established by the General Council in 1996. It was initially foreseen that the CRTA would carry out the examination of the regional trade agreements (RTAs) notified to the WTO, thereby assuming the functions of the individual working parties of the GATT. However, the examination of RTAs resulted in a stalemate. Between 1996 and 2001 not a single examination report was adopted by the CRTA, mainly due to continuing disagreements over the inherent ambiguities in GATT Article XXIV, the lack of information submitted by RTA parties, and the fact that the determination of consistency was to be made by all WTO Members, including those whose RTAs were under examination.

In December 2006, WTO Members adopted on a provisional basis a new transparency mechanism for RTAs. The new mechanism calls on Members to provide an "early announcement" of their involvement in negotiations of an RTA, requires Members to promptly notify a newly concluded RTA, and sets out a schedule for its consideration by WTO Members. The mechanism applies to various types of RTAs such as those falling under the Enabling Clause, preferential treatment accorded by any Member to LDCs products and any other non-reciprocal preferential treatment authorised under the WTO Agreement.

Parties to an RTA are required to submit certain data to the WTO Secretariat, such as tariff concessions, MFN duties, rules of origin and import statistics. Based on these series of data, the text of the agreement, and information from other sources, the WTO Secretariat prepares a factual presentation that is intended to assist Members in their consideration of the notified RTA. The Secretariat may also include other elements, if appropriate, in the factual presentation such as background information, scope and coverage, exceptions, S&D provisions, rules of origin, provisions affecting trade in goods (IP, labour, environment, TBT, SPS, trade remedies, if applicable), specific customs-related procedures etc. A specified timeframe is also established between the parties to allow for the transmission of comments on the draft presentation before publication, thereby ensuring the efficiency and legitimacy of the process.

The purpose of this Mechanism is to enhance transparency of the PTA under consideration. All the documentation produced during this process are made available to all members and published on the WTO Website. Changes affecting the implementation of a PTA during a calendar year (such as legal changes, changes in the implementation of the PTA or changes in the preferential tariffs per beneficiary partner applied) should be notified as well on an annual basis. This is a



highly challenging process for many Members as data collection is usually recognised as a major capacity constraint for most developing countries and LDCs. A transition period was therefore foreseen for designated members to fulfil their notification requirements under the transparency mechanism. Furthermore, upon request, the WTO Secretariat can provide technical support to developing country Members, and especially LDCs, in the implementation of this Mechanism, in particular – but not limited to – with respect to the preparation of PTA-related data and other information to be submitted to the WTO Secretariat.

WTO Members are currently reviewing the transparency mechanism with a view to making it permanent. Within the DDA ambit, Members are also engaged in negotiations aimed at “clarifying and improving disciplines and procedures under the existing WTO provisions applying to regional trade agreements.” Negotiations with the NG Rules aim to “take into account the developmental aspects of regional trade agreements”.

The CRTA reported that, as of November 1, 2010, 479 regional trade agreements, counting goods and services notifications separately, had been notified to the GATT/ WTO, 288 of which were in force at the time. A total of 92 regional trade agreements had been considered under the Transparency Mechanism since its adoption in December 2006.

1.3.3 ACP Context

In October 2008 a decision was taken by the ACP Group in Geneva to establish a Working Group on the EPAs Transparency Review at the WTO to discuss matters related to the CRTA Transparency Mechanism.

This Working Group devoted deep attention to the CARIFORUM-EU EPA as it was the only regional EPA both concluded and notified to the WTO at the time. The objective of the Working Group was not to address all questions that surround the transparency process at the WTO as regards the EPAs but to respond to some key issues and serves to point the reader in the right direction for ACP WTO Members, most of which are engaged with the EU in negotiations to conclude regional or national EPAs.

In the process a manual was developed in 2009 (“Understanding and Managing the Notification of EPAs at the WTO - A Manual for ACP Delegations”) to inform ACP diplomats and officials of the existing institutional arrangements in the WTO for the review of RTAs in the CRTA and the CTD. Furthermore, the manual enumerated the steps that ACP Members would undertake from the point of notification to the end of the review process.

The manual attempts to adumbrate the substantive issues which have been under debate in the Negotiating Group on Rules on RTAs issues and which may have an impact on the review of EPAs at the CRTA such as matters related to ‘substantially all the trade’; the timeframe; other restrictive regulations of commerce; the MFN clause; the notification of interim or stepping stone agreements; and the matter of compatibility with the WTO legal architecture of RTAs containing non-WTO member parties to that agreement. Many of these issues remain contentious but the manual has registered, in a comprehensive and cohesive manner, ACP interests and positions on these subjects.

2. REQUEST

To date only two CARIFORUM States have provided the requested data as it relates to the CRTA consideration of the CARIFORUM-EU Economic Partnership



Agreement (EPA) and the WTO Secretariat's preparation of the Factual Presentation on that Agreement.

In light of the above, the CARIFORUM Secretariat, through its EPA Implementation Unit, has made a request for the ACP MTS Programme to support the CARIFORUM States with their submission of required data to the WTO Trade Policy Review Division.

The global objective to be derived from this action is the submission of tariff related data to WTO by the remaining thirteen (13) CARIFORUM States to ensure compliance with the Transparency Mechanism. This action builds on the fact that the European Union has already submitted its data to the WTO with respect to the notification of the CARIFORUM-EU EPA.

A short-term Trade Policy Expert based in the CARICOM Secretariat will be expected to assist CARIFORUM States in the collection and verification of data to be submitted to the WTO. The following activities are envisaged to achieve the expected results:

1. Conduct desk research on CRTA requested data requirements;
2. Transmit data to CARIFORUM States for their review and verification;
3. Conduct exchanges with CARIFORUM States' Senior Officials via Skype, email and videoconferencing; and
4. Participate in regional meetings to validate the data, e.g. CARIFORUM, COTED or TWGs.

The project will assist CARIFORUM States in meeting their respective WTO obligations as they relate to negotiation and implementation of RTAs. The final beneficiaries will be Ministries of Trade of the fifteen CARIFORUM States. In addition, this action will support future submissions by CARIFORUM States to the WTO CRTA when they have completed negotiations on RTAs. The action will also facilitate the work of the WTO Secretariat in the preparation of its Factual Presentation. Furthermore, the project would assist CARIFORUM States discharge their WTO obligations.

3. EXPERTISE REQUIRED

The activity will require the services of a high-level international trade expert with the following profile:

Qualifications and skills

- Advanced university degree in Economics, International trade law, or equivalent. (Masters or PhD)
- Fluent in spoken and written English. Excellent report writing and drafting skills in English language
- Excellent communication and presentation skills, including organisation and animation of seminars/workshops and the use of presentation software
- Demonstrated ability to make oral and public presentations of technical issues in a simplified manner

General Experience

- At least 10 years of relevant professional experience on review and update of trade policy development and reform, of which at least 3 years' proven track



record on international aid projects and 5 years of international consulting experience

- Considerable understanding of ACP issues (political, economic and social) with a specific focus on the Caribbean Region
- Significant and broad experience in WTO issues
- Experience of working with various stakeholders in a multi-cultural context
- Conversant with the negotiations taking place in the WTO on RTAs

Specific Experience

Working experience in developing countries on several of the following areas:

- In depth knowledge of GATT Article XXIV and Regional Trade Agreements, with a specific focus on the EU-CARIFORUM EPA;
- Conversant with the process of trade data collection and analysis
- Substantial experience and strong analytical skills to assess the impact of the status of negotiations on RTAs to the domestic economies of the Caribbean Region;
- Substantial experience in reviewing and updating trade-related laws in accordance with GATT Article XXIX

4. TIME FRAME

The project will commence on signature of the contract, with delivery the latest on December 21st, 2013.

5. BUDGET

The ACP MTS Programme will contract the selected Expert with a Global Price contract of a total value of EUR 19,800 (direct agreement).

6. DELIVERABLES

The expected results will be a technical report of between 15-20 pages delivered to the highest professional standards and detailing the activities undertaken, the challenges encountered and the results achieved. The completed report should also include an executive summary (maximum 3-pages) that should allow for easy digestion by Caribbean policy makers of the most salient issues.