

Learning to love the EPA

INTERVIEW WITH AMBASSADOR HENRY S GILL

DIRECTOR GENERAL, CARIBBEAN REGIONAL NEGOTIATING MACHINERY (CRNM)



HENRY S GILL is the Director General of the Caribbean Regional Negotiating Machinery (CRNM). A specialist in international relations and international trade, he worked as Research Fellow at UWI's Institute of International Relations (IIR) before joining the Caracas-based Latin American Economic System (SELA) in early 1983, eventually serving as Deputy Permanent Secretary (1986-90). A consultant to inter-governmental, academic and private sector bodies, he joined CRNM in June 1999, serving as Senior Director in charge of technical coordination throughout the EPA negotiations. Ambassador Gill studied at the National University of Ireland at Dublin, IIR and the Graduate School of International Studies in Geneva.

What were the original reasons for seeking an Economic Partnership Agreement (EPA) between CARIFORUM and the European Community, and what relationship does the agreement have with the WTO?

The need for a permanent trading relationship that would replace the traditional one-way preferences that existed under the Lomé and Cotonou arrangements between Europe and the African, Caribbean and Pacific (ACP group) was the essential reason. And whatever replaced the traditional relationship had to be WTO compatible, which the unilateral arrangement was not because WTO members, particularly the developing countries, had become intolerant to such an arrangement. The Region took the conscious decision to negotiate a modern trade agreement that, while securing as much as possible of the access enjoyed by traditional commodity exports and where possible improving it, would include such areas as services, investment and other trade-related subjects, bearing in mind that modern trading relationships are not simply goods-based. Many CARIFORUM countries saw little or no benefit in an EPA except for the fact that it included Services and Investment. The trade-related subjects to be negotiated and the approach to so doing were decided through the Region's coordination process. They were Competition, Intellectual Property and Innovation, Transparency in Government Procurement, Personal Data Protection, Environment and Social Aspects. The Region needs this full menu of policy instruments if we are to lift our levels of development.

Why was the decision taken to negotiate as CARIFORUM rather than simply CARICOM or even the ACP (African, Caribbean and Pacific) group, and what challenges did that pose in the negotiations?

It would have been difficult to negotiate this kind of agreement as part of the ACP, especially in a context where a strong basis of the agreement is regional integration. So, it was decided from a very early stage that the ACP would negotiate as separate regions, which it could be argued, reduced the bargaining power of the individual ACP regions; but it could also be argued that collective bargaining would have been unwieldy. The Caribbean tried to get agreement for an all-ACP phase during which common issues would be negotiated, to precede the regional negotiations which would be devoted to region-specific issues, but some African regions did not go along with the idea. Negotiation by region was inevitable

especially since the EPA was intended to strengthen regional integration. But ACP solidarity, I am pleased to say, is a continuing reality. Throughout the negotiations there has been a lot of co-operation among the ACP regions and the grouping remains a solid bloc within the WTO, as the July 2008 mini-Ministerial could attest. Since January 2008 CRNM has sent seven missions to Africa to assist countries and regions in their negotiations, mainly on Services and Intellectual Property.

The determination of the Caribbean's negotiating configuration was a very easy decision because the 'C' in the ACP is really the CARICOM (Caribbean Community) countries plus the Dominican Republic. It was simply a case of taking a political decision to negotiate the EPA as CARIFORUM, which was done quite early. African countries experienced difficulties because of their overlapping membership in integration groupings.

Looking back, CARIFORUM coordination worked a lot better than some may have anticipated. We truly worked as a team and there were no major complications. A satisfactory balance was achieved in the selection of the CARIFORUM negotiators.

The initial European demand that CARIFORUM be treated as a single economic space was problematic, for there is no CARIFORUM single market and economy political intention, there is only a CARICOM single market and economy political project, and we had to make this point very clear to the Europeans. So CARIFORUM had to be regarded as a two-tier integration grouping, with the CSME (CARICOM Single Market and Economy) at the deepest level and CARICOM-DR relations as a more shallow integration effort. How we managed that whole issue was a very important part of the negotiation itself.

Another aspect has to do with the fact that the DR had already negotiated a free trade agreement with the United States of America (DR-CAFTA), which gave rise to certain European demands.

It is important to appreciate that the Dominican Republic made more far-reaching liberalisation commitments than the CARICOM countries collectively. That helped to shield some of the smaller countries in terms of the level of concessions they made individually, so there was in fact an advantage for the CARICOM countries from the DR's participation in the agreement. At the same time the DR itself did not have to make as deep concessions as it had made under the DR-CAFTA agreement.

What opportunities will the EPA provide for the countries of CARIFORUM, and in what way is it more 'developmental' than previous agreements?

Through the EPA CARIFORUM has secured full goods access to the largest market in the world. It is an improvement on Cotonou access product-wise, it is quota free, the rules of origin are significantly more flexible, and the security of a WTO-compatible international agreement obviates the need to seek a WTO waiver, thereby providing a lot more comfort to present and potential investors. Moreover market access for goods is immediate but for sugar and rice, which have very short transitions to full liberalisation.

Secondly, in Services, the EU's EPA commitment far exceeds its WTO offer, surpassing also access provided to any other trading partner. This is particularly so in Mode IV (temporary movement of natural persons) and in the area of entertainment, which were some of our major demands. We have to bear in mind that Services is a sector in which the Caribbean has important potential, and which can provide immediate benefit from the kind of access we have gained.

The EU has also opened up investment. The EPA also contains important provisions on the subject of innovation, allowing Caribbean access to European innovation systems and fostering partnership with European firms, which can improve Caribbean competitiveness in various areas.

These are some of the features that are development promoting. Europe has undertaken to increase its support for CARIFORUM integration and national development objectives. This agreement is quite unusual in its design. The first Part sets out the framework for sustainable development commitment and each succeeding chapter – for example, on agriculture or intellectual property,

competition policy or personal data protection – includes a section dealing with development co-operation that specifies CARIFORUM's priorities in regard to the particular commitments entered into. European support has been committed, whether technical or financial, to assist the Region in various ways. This is quite unprecedented in trade agreements, and it can assist our region in achieving a modern, competitive business environment, thereby helping to re-position our economies in an increasingly competitive globalised world.

Can the Caribbean really benefit from the services provisions given the strength of Europe, relatively speaking, in the services sector?

Of course – in fact Caribbean services firms are already operating in Europe. I remember one CEO telling me that his company was already bigger in Europe than in the Caribbean. So the fear that we are not going to have firms that are able to go there is misplaced, as is the fear of dominance of our own market by European firms.

I don't foresee a mad rush of European firms into the Caribbean, displacing the Caribbean firms in the services sector because this market is insignificant for Europe, and at any rate we have not committed to open much more than what is already open, and we have opened areas where we need entry of service firms. What I see is that over time, Caribbean firms will be building relationships and partnerships with European firms; they will benefit from outsourcing, particularly in data related areas, and they will get into the marketing of some of the things that we are currently exporting to Europe that other firms are marketing. I also see a wealth of opportunities for individuals vending their services in Europe as they take advantage of the opportunity the EPA provides to go into Europe in search of market opportunities.

The hardest part of the negotiations was the co-ordination among us as CARIFORUM rather than our interface with the Europeans across the negotiating table



CRNM's principal negotiating team, from left: Junior Lodge (partly out of shot), current and former Directors General Ambassador Henry S Gill and Ambassador Richard L Bernal, Ivor Carryl, Ivan Ogando and Deputy Principal Negotiator Ambassador Errol Humphrey

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How do these opportunities weigh against the disadvantages, given the huge differences in size between the negotiating parties?

The thoroughness of CARIFORUM's preparation and coordination enabled our region to protect its interests notwithstanding its relatively small size. One of the principles enshrined in our negotiations is asymmetry of obligations – in other words, when we use the word reciprocity we do not mean full reciprocity but rather asymmetrical reciprocity. For example, the Europeans opened their market to us immediately, with very short transitions for sugar and rice, as I have indicated. How did we reciprocate? We opened our market from 2011 and only for those products that were already liberalised. The rest were placed in a series of liberalisation 'baskets' to be opened up over five, ten, 15, 20 and even 25 years, and then on top of that we have a list of particularly sensitive products that are permanently excluded from liberalisation. For CARIFORUM as a whole, this last category is around 13 per cent. The MDCs (More Developed Countries) of CARICOM have permanently excluded on average 15 per cent; the LDCs (Less Developed Countries) have permanently excluded on average 30 per cent; and the Dominican Republic has permanently excluded 5 per cent.

So there is a clear differentiation in terms of the commitment of our countries and the weaker ones – the LDCs – do not have to make commitments at the level of the stronger MDCs. The EPA also contains strong safeguard commitments in CARIFORUM's favour which, for instance, allow CARIFORUM states to remedy or prevent serious injury by suspending tariff reduction or increasing duty or introducing tariff quotas.

How difficult was the negotiation and what did CRNM's responsibilities entail?

Our responsibility was to co-ordinate the whole process, which involved the technical work, organising technical coordination meetings comprising government officials, experts, the private sector and civil society generally. We organised consultations with industry groups and national consultations; the task involved interfacing with Ministers and even Prime Ministers in co-ordination meetings; it included a communication function – explaining the whole process to the public – and of course it involved negotiating. Finally, the RNM is the interlocutor with the EC, EU member states and a host of think-tanks and ACP trade negotiators and experts.

I think the whole thing functioned pretty well though it was arduous, particularly the several, seemingly unending meetings of the technical working groups. My preference would have been for the CARIFORUM states to take decisions more quickly. The hardest part of the negotiations, incidentally, was the co-ordination among us as CARIFORUM rather than our interface with the Europeans across the negotiating table.

Deciding on the exclusion list in particular took us far longer than I think anyone might have anticipated.

In the process the discourse we would have liked to have with civil society suffered, owing to a lack of time as well as available financial resources and personnel.

Why do you think the EPA has resulted in so much controversy and delays in signing?

I think what is termed as the controversy is a bit overblown. I don't see anybody marching in the street as has happened elsewhere; I see no business groups complaining that their interests are being undermined – on the contrary, there have been several business groups and industry representatives who have spoken out publicly in support of the EPA.

So my feeling is that there is an element of exaggeration about how controversial the issue is; the critics are very vocal of course, but the way I see it is that this is a big leap forward for the Caribbean and in any such endeavour there is caution, even apprehension. This is understandable for change is not easily embraced. There are deep emotions underlying trading arrangements, unrealistic expectations and a lot of misunderstanding and indeed misinformation. Because the content of the EPA is technically highly complex, it is very difficult to explain to the wider population, and because you can't go into all the necessary explanations, people can nibble at the edges and create the feeling that there is something wrong about this.

I think we have to have confidence in the fact that there was a very thorough co-ordination process among the CARIFORUM states at all levels (technical, Ministerial and Heads of Government), and a lot of participation from private sector groups – more so than in any other agreement our region has concluded, although not as much as we would have liked. The signing has been put off a few times for various reasons, but it should take place in mid-October.

What would you like to have seen done differently?

I believe we would all have liked to receive more feedback from certain segments of the private sector, which we simply could not get to respond. I would have liked to have seen political will being brought to bear a lot sooner in taking some of the hard decisions that had to be taken at the Ministerial level, rather than the process being dragged out at the technical level while waiting for those decisions; and finally, I would have liked us to have had time to devote to more outreach programmes to educate the population at large about what was at stake and what our governments were trying to do.

Ultimately, I think history will view this controversy as a storm in a teacup and that future generations will judge that this was the right decision for the Caribbean to make at this time.