

CRNM NOTE ON DIFFERENTIATION IN CARIFORUM-EC EPA

Member States of the Caribbean Community (CARICOM) are classified in the Treaty of Chaguaramas as either less developed countries¹ (LDCs) or more developed countries² (MDCs). Special and differential treatment (S&DT) is accorded to the LDCs within the context of the Treaty because of their differences in levels of development and economic structures. The S&DT provisions aim to ensure that there is more equity as regards obligations and commitments among parties to the Treaty, taking into consideration their levels of development, needs, *inter alia*.

Within the context of the EPA between CARIFORUM³ and the EC, a key guiding principle is that it should complement regional integration initiatives and the obligations enshrined therein. Consequently, during the negotiation, CARIFORUM sought to ensure that the special needs of CARICOM LDCs were taken onboard in the Agreement. In addition to the Special and differential treatment accorded to CARIFORUM as a whole⁴, the special needs of CARICOM LDCs are expressed in differentiated treatment on a range of issues in the EPA. Notable in this regard are the following provisions:

On **Trade in Goods**, the LDCs and Guyana⁵, subject to a decision of the Trade and Development Committee (TDC), may modify the level of customs duties stipulated in the EPA tariff Schedule which may be applied to a product originating from the EC. However, such modification should not result in an incompatibility between the EPA and Article XXIV of the GATT 1994. This provision essentially seeks to preserve the flexibility CARICOM LDCs have in Article 164 on Promotion of Industrial Development in the Treaty.

On **Services** liberalisation, the LDCs will undertake a lower level of sectoral liberalisation. LDCs commit to liberalise approximately 65% of their services sectors, whereas the MDCs have committed to liberalise around 75%. The DR has committed to open more than 90% of services sectors. Further, the Agreement provides a special concession for The Bahamas and Haiti; the latter being the only UN-designated LDC in CARIFORUM; to submit their commitments on services and investment within six months.

Another area where there is differentiation is with respect to **regional preferences**. In other words, whatever concession a CARIFORUM State grants to the EC with respect to goods and services will have to be automatically conferred on all other CARIFORUM States. MDCs will implement this provision after one year, two years for LDCs and five years for Haiti after the date of signature of the EPA.

¹ The LDCs are: Antigua and Barbuda, Belize, Dominica, Grenada, Haiti, Montserrat, St Kitts and Nevis, Saint Lucia and St. Vincent and the Grenadines. Haiti is the only UN designated LDC. Montserrat is however not a party to the EPA

² The MDCs are: The Bahamas, Barbados, Guyana, Jamaica, Suriname and Trinidad and Tobago

³ CARIFORUM is made up of CARICOM member states and the Dominican Republic.

⁴ See CRNM Note on Special and Differential Treatment in the EPA

⁵ Guyana is not an LDC within the CARICOM construct, but has recourse to Art 164 by virtue of its status as a Highly-Indebted Poor Country (HIPC) as stipulated in Art 156 of the Treaty.

On **Intellectual Property**, LDCs are exempt from the provisions on intellectual property contained in the EPA, other than the requirement to implement what may be required of them with regard to the implementation of the TRIPS Agreement as well as the flexibility to implement the provisions relating to standards on intellectual property and enforcement no later than 1 January 2021;

On **Public Procurement**, as regards transparency, CARIFORUM States have two years, save for CARICOM LDCs which have five years, from the entry into force of the EPA to bring their measures into conformity with any specific procedural obligation contained therein.

HGD
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