

CANADA AND THE CARIBBEAN COMMUNITY: PROSPECTS FOR AN ENHANCED TRADE ARRANGEMENT

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Introduction

The election of a Conservative Government in Canada in January 2006 was followed by a review of Canada's trade strategy, which led to an "aggressive bilateral trade negotiations agenda" notably in the Americas (FAITC, June 2007). According to the government, free trade agreements (FTAs) are needed to maintain competitiveness with the United States (which has now signed 16 FTAs) and to reinforce Canada's place in the North American production platform. Competition with the European Union (EU), which has signed FTAs with a number of countries in the region, is another likely factor. Canadian agricultural exporters, service providers, and financial and mining companies have also sought improved market access and predictability of treatment through FTAs.

One group with which the Canadian government has embarked on trade negotiations is CARICOM – the 15-member economic community in the Caribbean.¹ This was announced in July 2007 by Canada's Prime Minister Stephen Harper and CARICOM Chairman, then-Prime Minister of Barbados, Owen Arthur.² CARICOM was then deeply involved in negotiation of an Economic Partnership Agreement (EPA) with the EU which was concluded in December 2007.³ So it was only in early 2008 that Canada-CARICOM negotiations could start in earnest. Given

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¹ Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Suriname, Trinidad and Tobago. Haiti joined CARICOM a few years ago but has not yet been able to implement the commitments of the Single Market. The Bahamas is a member of CARICOM but not of the Single Market.

² In January 2001, then-Prime Minister Jean Chrétien and CARICOM Heads of Government attending the Sixth Canada-CARICOM Summit agreed "to establish a Joint Working Group to prepare a Framework Agreement on the scope and nature of a more mature trade and economic agreement in enhancement of existing arrangements and culminating in a possible Free Trade Agreement."

³ The EPA is between CARIFORUM (i.e., CARICOM and the Dominican Republic) and the EU.

recent developments in Canadian and CARICOM trade policies, notably Canada's pursuit of a series of new bilateral FTAs in the Americas and CARICOM's EPA with the EU, the key issues to be addressed in this paper, are: (i) What are the prospects for an enhanced trade arrangement (ETA) between Canada and the Caribbean? And (ii) what model is most likely to contribute to the region's development needs?

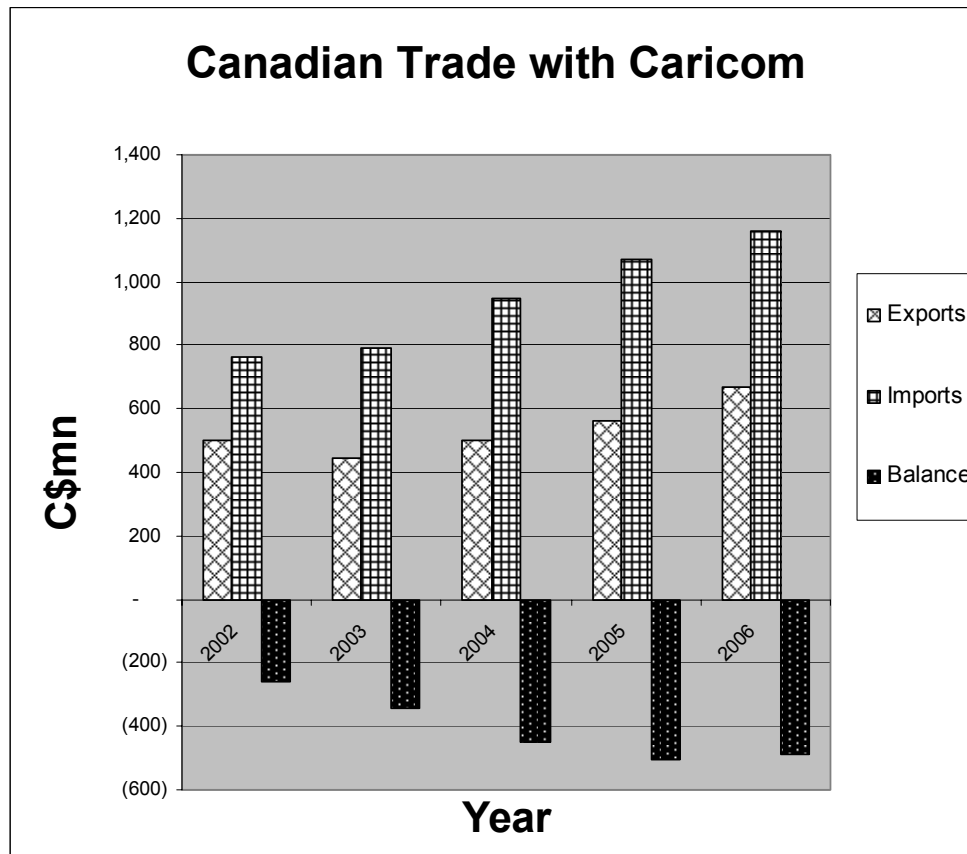
1. Canada-Caribbean Trade and Investment Relations

Trade between Canada and CARICOM is relatively small, though growing. Two-way goods trade amounted to some \$2 billion in 2006 (see Figure 1), while trade in services involved another \$3 billion (see Table 3). In both goods and services Canada has had a deficit with CARICOM, which in total has averaged about \$1 billion per annum in the last five years. Goods trade is fairly concentrated with the top five countries accounting for 82 percent of Canadian exports to the region in 2006 (Trinidad and Tobago, Jamaica, Antigua and Barbuda, Barbados, and Bahamas) and 95 percent of imports (Jamaica, Trinidad and Tobago, Suriname, Guyana, and Bahamas).

For Canada, the region is a very small trading partner with 0.01-0.02 percent of total trade in goods, though CARICOM ranks on a par with or above the other countries in the Americas with which Canada is negotiating trade agreements.⁴ For CARICOM, Canada is a slightly more important partner, though still only accounting for 2.3 percent of CARICOM's total imports in 2006 and 3.3 percent of exports. This compares with the United States (32.2 percent and 51.0 percent, respectively) and the EU (11.1 percent and 11.6 percent) (see Figures 2 and 3). The United States has become considerably more important as an export market for CARICOM than it was in 2001, while Canada and the EU have declined. (In 2001 Canada supplied 2.8 percent of the region's imports and bought 6.0 percent of exports – compared to 40.1 percent and 37.7 percent for the US and 14.6 percent and 13.5 percent for the EU, respectively.)

⁴ Canada's two-way goods trade with Peru was \$2.23 billion (2006), Colombia \$1.15 billion (2006), the CA4 \$350 million (2005), and Dominican Republic \$277 million (2006).

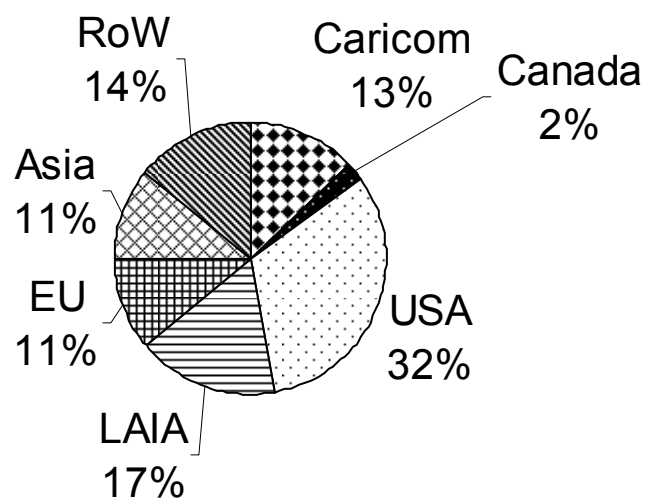
FIGURE 1



Source: Derived from Industry Canada Trade Data Online

FIGURE 2

Caricom Imports by Source 2006



Note: Excludes Antigua and Barbuda

Source: CARICOM Secretariat

FIGURE 3

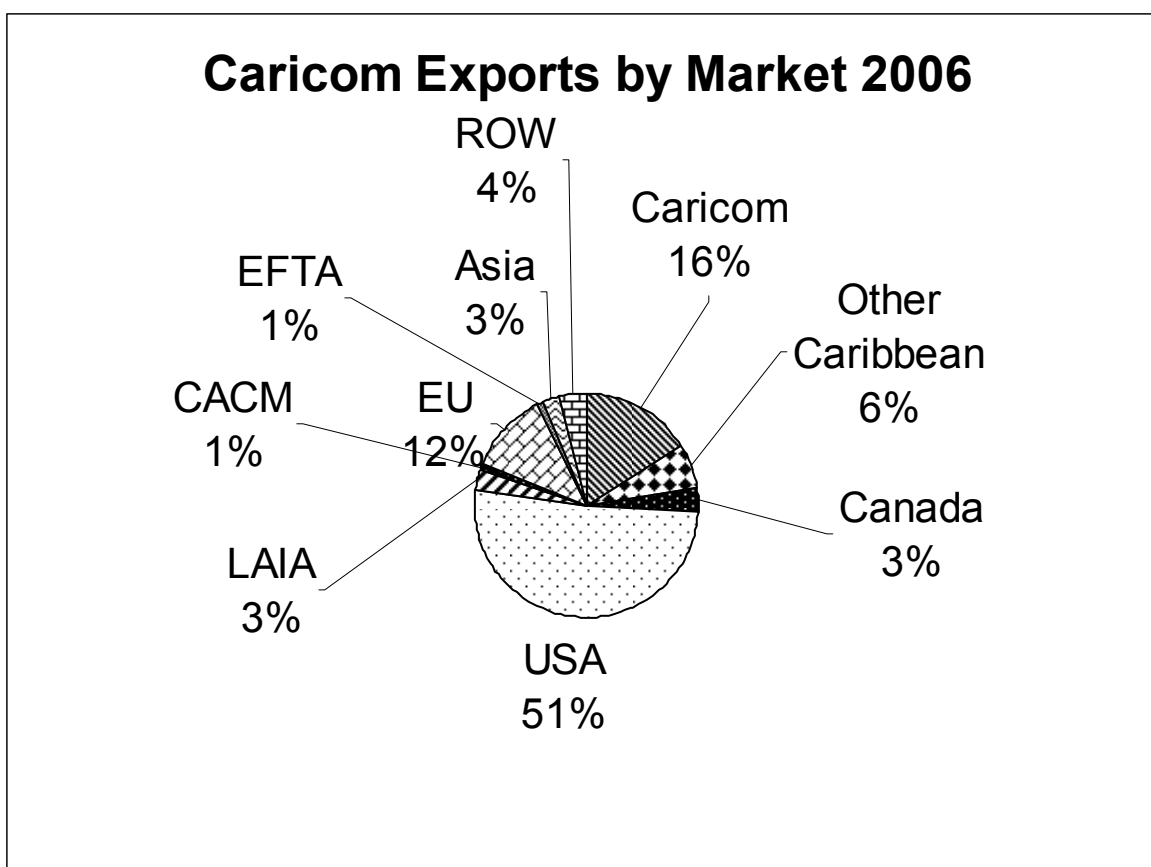


Table 1 shows that the top ten Canadian export products are a mix of manufactures, foodstuffs, and processed materials. The top five products account for 21 percent of the total. Imports from CARICOM (Table 2) are led by metals and energy products, and are more concentrated with the top five accounting for 85 percent of the total. Interestingly, clothing imports from CARICOM (HS 61 and 62) have risen by 50 percent from \$9.7 million in 1997 to \$15.7 million in 2006, though there has been a shift from woven products (which have fallen) to knitted products.

TABLE 1

Canadian exports to CARICOM (\$mn)	2002	2003	2004	2005	2006	
880230 - airplanes	0	0	0	0	38.99	6%
480100 - newsprint	33.26	35.41	25.72	19.71	37.12	6%
100190 - meslin, wheat	44.44	15.21	55.82	369.98	29.71	4%
300490 - medicaments	8.27	9.19	11.20	16.33	19.47	3%
852520 - trans./reception apparatus	0.83	0.29	1.17	7.27	19.31	3%
030569 - other fish - salted, etc.	10.14	11.37	10.69	13.18	16.32	2%
740811 - copper wire	0.16	0	6.84	14.31	15.84	2%
880240 - aircraft	0	0	0	2.96	13.28	2%
851790 - elec. apparatus parts	11.90	6.13	4.91	9.74	12.73	2%
200410 - potatoes, frozen	8.20	8.73	13.36	8.50	9.08	1%
Total including others	503.22	446.09	499.82	564.52	669.15	100%

TABLE 2

Canadian imports from CARICOM (\$mn)	2002	2003	2004	2005	2006	
281820 – aluminium oxides	244.19	231.81	322.31	363.41	386.95	33%
710812 – gold	257.75	192.54	328.41	322.37	345.01	30%
720310 - ferrous products	109.14	55.19	30.55	108.63	132.65	11%
290511 - methanol	19.01	61.73	85.93	77.96	75.83	7%
270900 - crude petroleum	0	0.01	0	0	48.69	4%
271011 - light petroleum	0	4.44	0	0	25.29	2%
220840 – rum, etc.	16.30	15.28	16.44	17.15	20.77	2%
310210 – urea	4.41	5.63	0	17.07	12.68	1%
271019 - heavy petroleum	0	97.57	57.57	49.77	10.72	1%
030611 - rock lobster	10.86	9.84	12.00	9.04	10.58	1%
	762.70	789.21	946.35	1071.64	1160.00	100%

Source: Industry Canada, Trade Data Online

Data on Canadian trade in services with CARICOM show that Canada has had a deficit between \$200 and \$800 million in the last five years (see Table 3). Commercial services dominate the picture, particularly with Barbados (Table 4). These are associated with the movement of capital to benefit from the preferential tax regime there, rather than a reflection of services provided for/by Barbadian-based businesses. In terms of the other main categories of services, for Canada exports of transportation and government services are somewhat larger than travel, while the reverse is the case for CARICOM. It is not possible to obtain disaggregated data from Statistics Canada for most CARICOM exports of services – the numbers of companies involved are too few for meeting confidentiality standards. The limited data available show the predominance of insurance services in most exports and imports. For Canadian services exports to CARICOM, insurance accounts for some 6 percent, followed by management services (7 percent), architectural, engineering, and other technical services (7 percent), miscellaneous services to businesses (4 percent), and computer and information services (1 percent). A

significant number of Canadian tourists visited CARICOM states over the past decade (350,000 in 2003⁵) but the trends have stagnated compared to Cuba and the Dominican Republic.

TABLE 3
Canada's Services Trade with CARICOM (\$mn)

	2000	2001	2002	2003	2004	2005
Total Services Receipts (Exports)	919	937	1540	1832	1461	1402
Total Services Payments (Imports)	1530	1670	1892	2188	2267	1612
Commercial services exports	771	762	1344	1671	1252	1178
Commercial services imports	1221	1333	1588	1839	1816	1160
Transportation and government services						
Exports	68	89	90	75	116	118
Imports						
Transportation and government services						
Imports	112	112	109	119	135	182
Travel Exports	81	86	106	86	93	106
Travel Imports	197	225	195	230	316	270

Source: Statistics Canada Table 376-0036 - International transactions in services, by selected countries, annual (dollars), CANSIM (database). Retrieved January 21, 2008, from http://cansim2.statcan.ca/cgi-win/cnsmcgi.exe?Lang=E&CANSIMFile=CII\CII_1_E.htm&RootDir=CII/

⁵ Caribbean Tourism Organization unpublished data.

TABLE 4
Canada's Services Trade with Barbados (\$mn)

		2000	2001	2002	2003	2003	2005
Barbados	Total Services Receipts (Exports)	707	641	1215	1541	1160	1087
	Travel	16	14	16	14	15	17
	Commercial services	683	619	1189	1517	1136	1061
	Transportation and government services	7	8	11	9	9	9
	Total Services Payments (Imports)	1188	1255	1510	1769	1813	1152
	Travel	54	72	72	87	99	92
	Commercial services	1130	1179	1432	1677	1710	1056
	Transportation and government services	3	4	6	5	5	4

Besides these more conventional forms of services, another dimension of the CARICOM-Canada commercial relationship is through the temporary movement of service providers, ranging from those supplying unskilled labour to professional services. These are important to the source countries for employment and remittances. Only limited data are available on the numbers of CARICOM people who work in Canada on a temporary basis.⁶ In 2006, these included 6,313 Jamaicans and 1,479 people from Trinidad and Tobago (6.9 percent of total temporary workers in Canada that year). The bulk were seasonal agricultural workers (over 90 percent in the case of Jamaica and 80 percent in Trinidad and Tobago);⁷ there were few CARICOM professionals working temporarily in Canada. Estimates suggest that these workers earn more than \$51.5 million a year.⁸

Canada is an important source of foreign direct investment (FDI) for CARICOM but this is mainly in the financial services sector. According to Statistics Canada, Canadian investment in Caribbean economies recently increased significantly, with Barbados attracting the highest level of inward investment flows, i.e., \$38.4 billion in 2006. In contrast, Canadian investment in Trinidad and Tobago, which attracts by far the greatest greenfield investment in CARICOM, was rather limited, with only US\$1.4 million in 2005 compared to US\$694 million from the United States. But various long-standing Canadian mining and financial investments continue to operate in the region, and Canadian firms are also active in the tourism industry, particularly hotels. Furthermore, in October 2007 the Royal Bank of Canada agreed to acquire the RBTT group (a regional bank from Trinidad and Tobago) for \$2.2 billion.⁹ On the other hand, a few

⁶ CIC, Facts and Figures 2006. Statistical Overview of the Temporary Resident and Refugee Claimant Population.

⁷ The data on farm workers are only readily available from Ontario; in 2006, there were 5,773 farm workers from Jamaica, 1,190 from Trinidad and Tobago, and another 807 from Barbados and the OECS (see F.A.R.M.S. at <http://www.farmsontario.ca/> (retrieved February 20, 2008).

⁸ Based on \$7,500 per annum per farm worker, see Gibb, Farmworkers from Afar, http://www.nsi-ins.ca/english/pdf/Farmworkers_Summary_Findings.pdf (retrieved February 18, 2008). Of this, each worker remits about \$5,000 (Russell, 2007).

⁹ "RBTT: Deal or no deal?" *Trinidad Express*, Monday, March 3, 2008.

Caribbean firms (including Jamaica's Grace Kennedy Inc. and the Gleaner) have been operating in Canada for many years. Therefore, despite the relatively limited merchandise trade, much important business is still being done between Canada and the Caribbean.

2. Reasons for an Enhanced Trade Arrangement (ETA)

From an aggregate goods trade perspective, a Canada-CARICOM enhanced trade arrangement (ETA) does not seem a high priority for either side. Here we consider what are possible interests in an ETA and, in the following section, what these imply about the appropriate model to pursue.

For CARICOM, tariffs are not a major issue; total exports to Canada paid 0.3 percent on average in 2005 compared to 2.9 percent in 1995, with a range in 2005 from 0 percent (for Guyana, Suriname, Trinidad and Tobago, St Vincent) to 8.8 percent (Haiti).¹⁰ More recently, the WTO reported that in 2006, of total imports of \$954.1 million from CARIBCAN beneficiaries, 84.3 percent entered duty-free on an MFN basis, 1.2 percent under the General Preferential Tariff (GPT), and 12.1 percent under CARIBCAN (WTO 2007a, p. 5). In other words, CARIBCAN provided duty-free treatment to 83.2 percent of imports that would otherwise have been dutiable.¹¹ The average tariff on imports in 2006 from CARIBCAN beneficiaries was 4.3 percent (WTO. 2007b, p. 33).

The WTO granted Canada a waiver for CARIBCAN in 1996 and again in 2006 allowing its extension to December 31, 2011. Over its 21 years of operation the program has seen a number of changes. Product coverage was expanded in 1991 and 1998 leading to 87 percent of tariff lines being duty-free but the rules of origin remain fairly strict at 60 percent value-added. The addition of methanol in 1998 was particularly important – it now accounts for almost two-thirds of imports under CARIBCAN. But textiles, clothing, and footwear remain excluded, as do agricultural products with tariff rate quotas. CARIBCAN's country coverage has not changed since 1986, though CARICOM has expanded to include Suriname and Haiti. Suriname is only eligible for Canada's GPT, while Haiti as a least developed country (LDC) is eligible for the LDC tariff, which is more generous in terms of product coverage and origin rules, since the Least Developed Country Initiative (LDCI) came into effect in January 2003.

One of the reasons for a new trade agreement is to replace the non-reciprocal preferences under CARIBCAN with a WTO-compatible instrument that preserves and enhances CARICOM's current preferential access. Besides ensuring continuation of this tariff treatment,

¹⁰ Finance Canada unpublished statistics.

¹¹ Calculated as \$115.2 million (imports under CARIBCAN) as share of \$954.1 million (total imports) less \$815.6 million (imports duty-free under MFN and GPT).

CARICOM's principal offensive interests lie elsewhere – notably in securing changes to provincial regulatory measures that constrain some goods, more liberal and binding access for service providers, and support with building capacity to meet Canadian market needs.

Since there is only a marginal increase to be gained in market access for goods under a new agreement with Canada, in principle an agreement on trade in services holds the greatest potential new benefit for most CARICOM members. This is particularly the case for the smaller countries in the Eastern Caribbean (OECS), for whom services exports account for more than 60 percent of GDP.¹² Furthermore, a bilateral agreement provides the best opportunity for the liberalization of Mode 4¹³ with Canada, given the very limited prospects for liberalization of this mode of supply at the multilateral level.

There are no data on call centres or data processing services, though some interviewees have reported these to be an area for growth in the Caribbean. There are likely other areas of complementarity with Canadian service firms, in which sub-contracting relationships might be developed ranging from accounting and health services to audiovisual editing. More recently, the animation sector is growing and should be able to benefit from outsourcing contracts from Canada.¹⁴ There is also interest in CARICOM in promoting the mobility into the Canadian market of professionals, such as those involved in software/IT, health services, entertainment, culture, and tourism. A study on opportunities in these areas might prove useful both for negotiations with Canada and for longer-term development of the CARICOM service industry.

Some CARICOM governments may also expect that an ETA will stimulate inward investment, both through its market access and investment provisions. Some countries have long-standing bilateral Foreign Investment Protection Agreements (FIPAs)¹⁵ with Canada, but others wanting to replicate these more recently have been told by Canada instead to address their investment interests within the broader trade negotiations.

In terms of its defensive interests, CARICOM will expect that any agreement takes into account the varying levels of development including the status of many members as small and vulnerable economies (SVEs). A key objective is the economic and sustainable development of CARICOM countries and the principle of special and differential treatment through:

¹² Note, however, that Barbados dominates the region's exports of commercial services to Canada, largely due to the offshore or international business sector.

¹³ Mode 4 involves the temporary movement of workers to provide services in foreign markets.

¹⁴ A Montreal firm, ToonBoom, is a major player in this regard.

¹⁵ These are known in other countries as bilateral investment treaties.

- (a) asymmetrical obligations in favour of CARICOM states;
- (b) progressive liberalization of goods and services trade; and
- (c) cooperation including technical and financial assistance to facilitate adjustment to liberalization, and trade facilitation, notably to build capacity for exports by the predominantly small firms in the CARICOM region.

For its part, Canada has not listed specific barriers in any CARICOM member's market in its annual report on international market access, though there are some goods where Canadian exporters have faced tariff barriers, such as pork; potatoes and pulses; pharmaceuticals; iron, steel, and copper products; and electrical equipment.¹⁶ There were problems earlier in some CARICOM markets for Canadian beef exports after a BSE case was reported in Canada in 2003, but these appear to have been resolved (FAITC, CIMA Report. 2007, p. 8). The market access barrier database also lists a few sectors where Canada is looking for changes in some countries as in the case of architectural services in Jamaica and in R&D services in Jamaica and Barbados.¹⁷ Canada is seeking the elimination of state and local purchase provisions, local recognition of qualifications for personnel such as engineers and scientists, freedom for technical workers to travel freely to service equipment, and stronger intellectual property rights (IPR) protection. There are several other service sectors in which Canada is seeking improved access from all countries including CARICOM, in terms of mutual recognition, temporary licensing, and the removal of economic needs tests, which it considers to be barriers to the international movement of Canadian professional service providers. In hotel and restaurant services and the tour operator sector, Canada is seeking an end to barriers affecting commercial presence such as economic needs tests, citizenship requirements for obtaining certain types of licences, and joint venture requirements.

Prime Minister Harper said the push for free trade between Canada and CARICOM is driven by his government's "commitment to revive and expand Canadian political and economic engagement in the region." He further indicated that a new economic partnership, which will be centered on a trade agreement, will take account of the particular circumstances of the region's smaller states. Except for Trinidad and Tobago, none of the CARICOM economies seem capable of taking advantage of the Canadian market from their own commercial initiatives. A new framework for economic partnership will have to be development-enhancing and help to build export capacity, rather than to consist only of traditional market access even if that were extended to services.

¹⁶ *Canada-Caribbean Community (CARICOM) free trade negotiations*, DFAIT Web site.

¹⁷ See http://w01.international.gc.ca/CIMAP/FicheDetail.aspx?Fiche_ID=1282 (retrieved February 20, 2008).

While it has concluded several bilateral FTAs, and the trilateral NAFTA, Canada has not signed any trade agreement with a group of developing countries. The plurilateral Free Trade Area of the Americas (FTAA) negotiations were abandoned; and it does not augur well that Canadian negotiations with Central America (CA4) have stalled indefinitely, with no apparent interest on either side to resume negotiations. It will be interesting to see how negotiations with the 15-member CARICOM group evolve in light of the differences in size and levels of development among them.

Given the relatively insignificant level of trade and investment between Canada and this region, it seems obvious that Canada is pursuing larger foreign policy objectives rather than market access.¹⁸ The question is to what extent Canada is prepared to do something really innovative in the Caribbean to address the idiosyncracies of small and vulnerable island states.

3. Possible Institutional Frameworks

One of the key questions, then, is what model might be most appropriate for strengthening Canada-Caribbean commercial relations. On the Canadian side, going beyond the WTO, there are essentially three models to choose from: the current preferential approach (CARIBCAN-plus), the pre-2001 or older generation FTA model (such as the Canada-Costa Rica FTA), and the post-2001 or newer generation FTA model (such as the Canada-CA4 FTA). These are each reviewed here in turn.

Canadian Models

CARIBCAN-plus. It may be politically appealing for CARICOM to seek an expansion of CARIBCAN to include all its members, all products, and some services, more generous rules of origin and greater security – for instance, through making it binding. But this may be practically difficult since it is non-reciprocal and would require a WTO-waiver. When Canada extended the current waiver to 2011, it was with the expectation that a new trade agreement would be in place in the near future so that it would not be necessary to return to the WTO to seek extension of the waiver again. Given the difficulty which the CBI preferences of the US faced in the WTO due to opposition by one country (Paraguay), it is clear that a CARIBCAN-plus option is not the optimal one for the long-term evolution of Caribbean-Canadian trade and economic relations.

¹⁸ There may also be a domestic constituency-building aspect: in 2006, there were 390,000 residents in Canada who originated in the 15 CARICOM countries, according to Statistics Canada, Retrieved February 15, 2008, from <http://www12.statcan.ca/english/census06/data/highlights/Immigration/Table404.cfm?Lang=E&T=404&GH=4&GF=1&SC=1&S=1&O=D>. Caribbean authors and artists have also influenced the Canadian cultural landscape. And Canada's Governor General is of Haitian heritage. Furthermore, Michael Lee Chin, a successful businessman and immigrant from Jamaica, donated \$30 million to the Royal Ontario Museum.

'Older' generation FTA model. Canada generally sees FTAs as useful tools both for their direct effect on bilateral trade and investment flows, their contribution to the development patterns of the countries in question as well as broader foreign relations with them, and the precedent they may serve at a plurilateral and multilateral level. The Canada-Costa Rica FTA (CCRFTA) is the most asymmetrical of Canada's FTAs to date and therefore may be of particular interest to CARICOM. Amongst its key features are: fewer immediate tariff cuts and longer (14-year) elimination periods for some products for Costa Rica; the exemption of some products; the exclusion of IPRs, public procurement, services, investment, and sanitary/phytosanitary standards and technical barriers to trade; and cooperation in several areas.¹⁹ But this approach is not appropriate for the Caribbean, given their strong interest in services, especially the OECS territories and Barbados, and even Jamaica.

'Newer' generation FTA model. While details of the newer generation (or "more modern" according to the Canadian government²⁰) of FTAs being negotiated are not yet generally available, there are a number of key elements that are known, and some are likely to derive from older FTAs, such as the one signed with Chile in 1996. For instance, that agreement included NAFTA-like investment provisions (though some capital controls were allowed on foreign portfolio investments), a negative services list, a ban on export taxes, and an end to antidumping duties, though it excluded IPRs. In the more recent FTAs, Canada has sought the inclusion of standards that are more onerous than required by the WTO, in the area of IPRs and government procurement.

Caribbean models. From the Caribbean perspective there are two models that might be considered. One is the EPA recently negotiated with the EU, and another is the preferential model being pursued with the United States in terms of making permanent or indefinite the Caribbean Basin Trade Preferences Act and extending its benefits to all CARICOM states. However, this will still face the issue of WTO-compatibility and waivers and is likely not a long-term solution. The EPA model is the most attractive to CARICOM and will inevitably inform the Caribbean's approach. It consists of a combination of trade liberalization and development provisions to support that process and facilitate capacity building and economic transition. In the EPA, development provisions are included in each subject area, and there is a process to seek funding to implement projects that will evolve from the broad categories listed in the EPA text. In addition, there is a firm commitment of €72 million allocated for EPA implementation-related activities from European Development Fund resources (10th EDF) for 2008-2013.

¹⁹ These include SPS and TBT, competition policy, and trade facilitation.

²⁰ "Canada-Caribbean Community (CARICOM) Free Trade Negotiations," DFAIT Web site (November 30, 2007).

4. Possible Scope of the Negotiations

The issue of the nature of the agreement to be negotiated arises in light of the statement by then-Prime Minister Owen Arthur of Barbados in July 2007 that CARICOM was interested in negotiating an “economic partnership agreement” rather than a “free trade agreement” with Canada. It was clear from that interaction, however, that Prime Minister Harper was thinking about a regular FTA. The differences are not merely linguistic.

In October 2007, in keeping with the signal from their Heads of Government, the CARICOM side proposed that the negotiations should result in an “economic partnership agreement” rather than a strict FTA. Such an agreement should not focus solely on trade liberalization but should also include a development cooperation component to address capacity problems arising from the implementation of commitments and adjustment to liberalization. Canadian officials seemed sympathetic to CARICOM’s position and indicated a readiness to embrace cooperation in the scope of the agreement and to include CIDA officials in the negotiations. But they were uncomfortable with the notion of an EU-style EPA, having received negotiating authority based on an FTA. Instead, the Canadians may be disposed to a “trade and development agreement.” However, the nomenclature is irrelevant; what matters is the substance.

While CARICOM is committed to a WTO-compatible agreement which satisfies the GATT/GATS requirements of trade agreements between developed and developing countries, the notion of an EPA is intended to add a development dimension in terms of the objectives, principles, content, and approach to the negotiations. Furthermore, CARICOM has just successfully negotiated an agreement with the EU which is comprehensive in scope and covers goods, services, investment, and trade-related issues (such as competition, innovation, sustainable development, environment and labour, etc.), and in which provisions on development cooperation are included in each subject section. So CARICOM is in a strong position to make similar if not identical demands of Canada. After all, Canada is a smaller trading partner, and it is reputed to have a kinder, gentler approach than others in its relations with the developing world.²¹

²¹ The United States expects CARICOM to undertake CAFTA commitments and provides no development support for transition, but this is a non-starter for the tiny states in the region.

Specifics of a Possible Agreement

CARICOM and Canadian officials had previously agreed that the primary focus of the negotiations should be on Market Access, Investment, Services, Institutional Arrangements, and Dispute Settlement. Side agreements on Labour and Environment would also be negotiated.

Canada seems to have a strong interest in negotiating a full agreement on government procurement, including disciplines on transparency and market access, as well as limited provisions on competition policy which deal with cooperation. Canada also signalled an interest in limited provisions on state enterprises and monopolies which would not require the termination of state enterprises, but ensure that their existence is not viewed as a way of circumventing treaty obligations.²² CARICOM's strategy in these two areas should be guided by the approach taken in the EPA negotiations and the provisions of the Revised Treaty of Chaguaramas. In respect of government procurement, CARICOM's mandate is limited to issues of transparency. But any deeper commitments could be the subject of a built-in agenda. In principle, CARICOM should be able to agree to the general approach proposed by Canada regarding competition policy and perhaps the treatment of state enterprises and monopolies, without prejudice to the substantive negotiations. Nevertheless, the distribution practices of the liquor boards in Canada are a sore point for any country seeking access to the Canadian market for spirits. And, given the decline in export prospects of the sugar industry in the Caribbean, there will be greater product innovation in the rum and allied products sector in the medium and long term.

Market Access for Goods

It had previously been agreed by both sides that market access negotiations would cover Tariffs and Non-Tariff Measures, Safeguards, Rules of Origin, Customs Procedures, and Trade Facilitation. Tariffs are not a major issue for CARICOM exports to Canada as most now enter duty-free under MFN, CARIBCAN, or the GPT. Nonetheless there are some specific tariff issues to negotiate. Improved market access for CARICOM goods exports should focus on the following elements: (i) locking in the access currently enjoyed under CARIBCAN at the start of the negotiations and the liberalization by Canada of CARICOM exports not currently covered under CARIBCAN, in particular clothing and footwear (HS Chapters 50 to 65), as well as agricultural products with tariff rate quotas (TRQs); (ii) removal of non-tariff barriers; (iii) relaxation of the rules of origin; and (iv) special provisions regarding the distribution and sale of Caribbean rum and the removal of blending requirements to achieve similar treatment to US

²² This is consistent with Canada's defence of its marketing boards in the multilateral context.

rum under NAFTA and spirits imported from Chile and Costa Rica²³ under their FTAs with Canada.

It is expected that CARICOM will reiterate the following concerns with respect to goods market access:

- (a) The need for asymmetrical reciprocity in tariff liberalization on the part of the CARICOM countries.
- (b) The need for flexibility in the timing and transition of tariff liberalization, given the revenue concerns of some CARICOM countries, as well as exclusions from liberalization. In the EPA with the EU, Caribbean states were allowed tariff liberalization periods of up to 25 years for sensitive products.
- (c) The importance of technical and financial assistance for trade facilitation to help compliance with any obligations in this area.

Services

The services sector is important for any negotiations, as it should provide opportunities for new investment by Canadian businesses in the CARICOM region, new sub-contracting arrangements, and new openings in Canada for the movement of professionals and less-skilled workers, as well as other types of services exports. Certainly a trade agreement, in parallel with other initiatives, would help to expand the level and types of services trade and investment, and thus to enhance the Canada-CARICOM commercial relationship. However, the approach to and extent of liberalization in services remain the major area of difficulty between both sides. CARICOM favours the progressive liberalization of services based on a positive list approach, according to the mandate from their Heads of Government. Canada is interested in a comprehensive services agreement based on a negative list.

Canada's interest in sectors such as telecommunications, environmental services, and business services should not pose a real problem for CARICOM; but financial services are very sensitive and governments are reluctant to open this sector, in spite of whatever is taking place in the market.

In the EPA, CARICOM states liberalized approximately 60–75 percent of sectors (and not much in terms of Mode 4) but they received significant market access since the EU opened more than 90 percent of sectors. In addition, several EU states granted substantial Mode 4

²³ Article III.8 of the Canada-Costa Rica Agreement prohibits the adoption or maintenance of any measure requiring that distilled spirits imported from the territory of the other Party for bottling be blended with any distilled spirits of the Party.

access for contractual service suppliers (CSS) from CARICOM in 29 sectors and for independent professionals (IPs) in 11 sectors.²⁴ Furthermore, 26 EU states granted market access for Caribbean CSS in Entertainment Services (CPC 9619). There is also a special Protocol on Cultural Cooperation which provides for collaboration, technical assistance, and temporary entry of artists and cultural practitioners, with particular initiatives in the audiovisual sector. CARICOM will expect no less treatment from Canada.

Given the very small size of services firms in CARICOM, a new development-promoting trade instrument with Canada needs support to address information asymmetries regarding the regulatory environment in different service sectors and commercial opportunities in Canada, and to meet Canadian services standards.²⁵ The EU has committed to address similar issues in the EPA to benefit the Caribbean. This is essential if CARICOM firms are to take advantage of any market access granted through trade liberalization by developed countries.

Temporary Entry and Bilateral Labour Programs

One of the issues that might explain the low numbers of CARICOM skilled workers is recognition of professional training and experience, and residency requirements.

Accreditation and Licensing

For Canadian service providers wishing to operate in the Caribbean, there appear to have been fewer problems with accreditation. For example, the professional qualifications of Canadian engineers are usually recognized – in fact, Caribbean universities/training institutions often use Canadian courses as the basis for their own engineering curricula. However, this does not mean that there is reciprocity, i.e., that Caribbean qualifications are automatically accepted as substantially equivalent to Canadian qualifications. Canada does not accredit any institutions outside Canada – rather, the issue is whether the courses they offer are substantially equivalent to those offered in Canada.

Licensing of professionals is usually the responsibility of provincially based professional organizations (i.e., non-government groups). For engineers, licences are issued by one of the 12 provincial/territorial licensing boards, on the basis of academic training, experience, and a test on knowledge of law and ethics. If the board is not satisfied that a foreign engineer's professional qualifications are equivalent to Canadian qualifications/training, the applicant may be asked to sit "confirmatory exams," some of which may be waived depending on a person's

²⁴ There were some conditions and limitations such as economic needs tests in the newer EU Members.

²⁵ See Ramesh Chaitoo, "Aid for Trade for Services in Small Economies: Some Considerations from the Caribbean," in Dominique Njinkeu & Hugo Cameron (Eds.), *Aid for trade and development* (New York: Cambridge University Press, 2008).

training courses and on their experience (i.e., if they have more than 10 years' experience). Mutual recognition will be a key issue in services negotiations between CARICOM and Canada.

CARICOM has underscored the importance they attach to the bilateral labour programs for seasonal workers in Canada and the objective of extending their coverage to all CARICOM countries.²⁶ While Guyana (and some other countries in the hemisphere) have sought inclusion in the farm worker program, a number of Caribbean governments have pressed for expansion to other sectors such as hotels, construction, and garments, and even professionals like lawyers (for dealing with landed immigrant cases). In recent years, hospitality workers from Barbados and a few other CARICOM states have been recruited on a temporary basis to work in the hotel sector in Canada.²⁷

Several Canadian employers have also sought the flexibility to bring workers from outside Canada to meet their labour shortages. In response, the government expanded the scope for temporary entry of low-skilled foreign workers in the 2001 Immigration and Refugee Protection Act.²⁸ It has introduced a number of pilot programs allowing other categories of workers to work in Canada on a temporary basis. These include construction workers, workers in the machine tools industry, meat packers, hotel workers, and exotic dancers. Essentially the Canadian government is testing a framework to meet labour shortages as they arise in any sector of the Canadian economy.²⁹

To date the Canadian government has not offered to include such programs in any of its bilateral FTAs. But there is no *a priori* reason why provision cannot be made in a development-promoting trade agreement with CARICOM for a special Protocol on Labour Cooperation to

²⁶ Canada presently has MoUs with three countries – Jamaica, Trinidad and Tobago, Barbados – and the OECS under which farm workers are allowed to come to work in Canada on a seasonal basis each year. This special facility is protected by an MFN exemption under the GATS.

²⁷ In June 2003, 36 workers from Barbados went to work in the tourism sector in Ontario as stewards, housekeepers, and restaurant staff as the first participants in the hospitality sector. Another 50 workers were projected to go to Canada in 2004. *Barbados Advocate*, June 23, 2003.

²⁸ Defined as skill levels C and D in the National Occupational Classification System (i.e., typically requiring a high school diploma, on-the-job training, and/or some course or experience related to the job). See “Pilot Project Relating to the Entry of Foreign Workers in Low-Skilled Occupation,” Foreign Worker Program, HRDC, 2002.

²⁹ Amongst the characteristics of these pilots are: economic needs tests and tests for impact on vulnerable populations (such as unemployed youth and aboriginal communities); evidence required of affordable accommodation; workers are to be provided with contracts including details of work hours, wages, deductions, benefits, etc., before arriving in Canada; employers are required to pay travel costs and encouraged to provide training in English and on labour standards, time limits (workers can stay for one year, after which they must return to their countries of origin for four months, before returning to Canada); and workers cannot bring their spouses/families. See <http://www.cic.gc.ca/manuals-guides/english/fw/index.html> (February 10, 2008).

facilitate this. All that would be required is some innovative thinking. If Canada is really interested in addressing the needs of Caribbean countries, it is possible to establish a special instrument that can be managed by Human Resources and Social Development Canada (HRSDC) and the Immigration authorities in conjunction with labour or trade ministries in the Caribbean.³⁰

Investment

The question for CARICOM is how to stimulate greater activity and investment in more solid, development-promoting projects through a new, comprehensive trade and investment instrument. The legal framework for promoting even greater business deals may be bolstered through a more stable investment framework especially in light of the emerging CARICOM Single Market. Investment in tiny, fragmented national markets is not attractive to any foreign investor. But the CARICOM region is not really promoting its Single Market in this regard.

Currently CARIBCAN does not cover investment protection and promotion, and only two CARICOM countries (Barbados and Trinidad and Tobago) have signed FIPAs with Canada. As such these are the only economies with a strong legal footing for both outward investment to Canada and inward investment from Canada.³¹

In the discussions on investment, Canada will likely seek a NAFTA-type negative list approach to the investment chapter where all sectors will be opened to foreign investment except those specifically listed as having reservations or limitations or that are excluded. For its part, CARICOM will likely want to include cultural industries, with provisions to foster inward investment in the creative sector, whilst respecting Canada's sensitivities. It would also be worthwhile for a new agreement to include investment promotion provisions to foster cooperation between "Invest in Canada" and investment promotion agencies (IPAs) in the Caribbean.

³⁰ The labour protocol/instrument should pay particular attention to ensuring respect of workers' rights while in Canada (see Gibb, 2007).

³¹ The agreements signed in the late 1990s between Canada and Barbados and Trinidad & Tobago are based on a NAFTA-type investment approach which includes provisions for national treatment with exceptions (post establishment), MFN treatment with exceptions (post establishment), compensation for losses, investor-state dispute settlement, expropriation (direct and creeping), freedom of transfer of investment returns, TRIMs prohibitions, movement of key personnel, and subrogation. Exceptions were negotiated for cultural industries. They utilized an asset-based definition of investment that covers direct investment and some portfolio investment. Both may benefit from improvements in the context of regional negotiations, including changes to provisions that more generally have been found to be contentious, such as investor-state dispute settlement.

In the EPA investment chapter, CARICOM states and the EU included “social” obligations to safeguard the environment, labour standards, and occupational health and safety standards. The EPA requires that governments ensure investors are forbidden from engaging in corruption of public officials to obtain favours and that they uphold labour and environmental standards. The investment chapter also provides for community liaison processes in the case of investment in extensive natural resource-based activities. Furthermore, both EU and Caribbean governments have committed to ensuring that investment will not be encouraged by lowering domestic environmental, labour, or occupational health and safety standards. These provisions will likely also be included in any new agreement with Canada.

Labour and Environment

Side accords on labour and environment are standard in Canadian FTAs. Canada has confirmed that the agreements provide instruments for cooperation and information exchange. In this regard, the core approach in relation to labour should be mutual recognition for international labour standards and cooperation for capacity building. CARICOM trade and labour officials have indicated their preference for the approach adopted in the Canada-Costa Rica FTA in which there are no fines or punitive measures. In any event, labour practices in CARICOM are in keeping with international standards, except perhaps in some instances in Haiti. In this regard, Canada could provide technical support to assist Haiti in improving its labour regimes and implementing relevant standards.

On environmental cooperation, both sides are expected to agree to high environment standards but which should not act as arbitrary barriers to trade. Several Canadian firms have expertise in environmental technologies and processes that can benefit the Caribbean; therefore, some market access for environmental services is expected from both sides.³² Cooperation under the new trade and development agreement should seek to improve environmental management and policy making in CARICOM states, especially the small vulnerable ones with fragile ecosystems. In the EPA, the Caribbean states and the EC agreed to jointly promote high environmental standards.

Legal and Institutional Issues

Both sides should agree in principle to a single-level arbitral panel, based on the Canadian FTAs with Chile and Costa Rica. Given their small bureaucracies, CARICOM states would expect the design of any dispute settlement regime to be sensitive to, and take into account, the relative human resource and financial constraints of CARICOM vis-à-vis Canada. Further, there is need

for adequate consultation, mediation, and good office procedures that could mitigate the incidence of arbitration.

5. Conclusion

While the bilateral commercial relationship between Canada and CARICOM is not particularly strong, it has been fairly steady and within a context of good aid and foreign relations. The ongoing negotiations are intended to strengthen trade and investment flows by replacing the current patchwork of policies with a more comprehensive and secure framework. The negotiations with CARICOM provide an opportunity to test Canada's understanding of and commitment to a trade and development agreement or an enhanced trade arrangement (ETA), instead of its more conventional FTA. For CARICOM, this agreement will also be important in setting out some of the areas where it will expect subsequently to negotiate with the United States, as part of an effort to integrate into North American production chains.

Canada's recent record with FTAs suggests somewhat different expectations, including more reciprocal market access commitments, and provisions on investment and services that follow the NAFTA model, while being reluctant to make binding commitments on lower-skilled service providers and aid-for-trade. Yet these are the areas where CARICOM has demands, along with others (rum, entertainment service providers, etc.).

Having just concluded an extensive EPA with the EU, CARICOM will expect key elements of that agreement to inform their demands and offers to Canada. As we have seen, these include: (i) building on CARIBCAN in terms of binding, expanded product and country coverage, and more generous rules of origin; (ii) measures to make it easier for service providers including professional and low-skilled workers to satisfy Canadian needs including their accreditation and licensing, and the expansion/binding of programs such as the farmworker program; (iii) investment provisions which stimulate Canadian investment but without exposing CARICOM governments to overly punitive measures; and (iv) firm commitments on the nature and amounts of cooperation for implementation and in areas such as labour, the environment, standards, and innovation, among others. A further complication is that the initialling of the EPA has triggered dissatisfaction amongst many stakeholders with the development provisions and areas such as procurement and competition. So these will be very sensitive in the Canada-Caribbean negotiations.

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