

NOTES AND COMMENTS

THE COMPATIBILITY OF CARIBBEAN MEMBERSHIP IN LOME, NAFTA AND GATT*

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TRADE BLOCS

The world economy is moving towards a new phase of globalisation via the establishment of trade blocs. These blocs are either formally organised like the European Economic Community and NAFTA, or are market-induced, as in Asia. Regional trade liberalisation is occurring through an amalgamation or catenation of economies, which is market-driven. Trade blocs represent way stations on the way to globalisation. Growth in small, developing economies of the Caribbean will depend to a considerable extent on participation in, or access to, these trade blocs, hopefully establishing relationships which permit simultaneous access in as many blocs as possible. At present, Caribbean countries have preferential, non-reciprocal access to the E.E.C. via the LOME Convention, to the United States via the Caribbean Basin Initiative (CBI), and to Canada via CARIBCAN.

The entry into force of NAFTA in January 1994 will have serious adverse implications for the Caribbean. The NAFTA grants Mexico duty-free, quota-free treatment for commodities that are exempt from duty-free treatment under the CBI. This disparate treatment results from the fact that the CBI covers most of the trade categories but not most of the actual US/CBI trade. The CBI excludes some of the goods in which the Caribbean has a comparative advantage, e.g., textiles, apparel, leather goods, sugar, and tuna. Since, exports of most of the commodities which are exempt from duty-free treatment are growing rapidly, trade and investment diversion is an eventuality which must

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be addressed. Indeed, diversion of trade and investment has already begun in the CBI area. In addition, there is the possibility that existing productive capacity will be relocated to Mexico. Many of the manufacturing enterprises are concentrated in apparel and electronics, and notoriously "foot-loose" industries. Therefore, the question of the Caribbean joining NAFTA to avoid the erosion of its exports to the U.S. and Canada is an important issue which must be decided quickly.

COMPATIBILITY OF MULTIPLE TRADE PACTS

If Caribbean countries that are members of the LOME Convention opt to join NAFTA, either through an accession clause or through a Free Trade Arrangement, then the Caribbean would enjoy preferential, non-reciprocal treatment under LOME and, at the same time, be involved in a reciprocal trade arrangement with NAFTA. This poses a dilemma for Caribbean LOME participants that are seeking NAFTA membership, because under Article 174 [2(a)] of the LOME Convention, the ACP countries are obliged to provide no-less favourable conditions to the EEC than those provided to any developed country. Specifically, if Caribbean countries provide reciprocity to the United States and Canada by virtue of an FTA or NAFTA membership, then the Caribbean countries would be obliged to provide reciprocity to the EEC under the terms of LOME.

At the present time, several preferential trade arrangements for Caribbean countries co-exist the LOME Convention, the Caribbean Basin Initiative (CBI), and CARIBCAN. These all co-exist within the framework of the GATT. Article 36 of the GATT recognizes the need for special and differential treatment of developing countries. However, it is quite likely that a future convention to succeed LOME could be based on reciprocity rather than preferential trade and could involve conditionality related to good governance, human rights, and democracy. This seems to surpass the coverage of the GATT at the present time. It also would be consistent with GATT principles. However, some of the discussions on contents and conditionality involved in a future convention would go beyond the GATT.

The NAFTA, although embodying provisions on labour rights and the environment is GATT compatible because it is viewed as a

Free Trade Arrangement and therefore permitted under Article 24. It meets the criteria because it covers substantially all trade and does not escalate protection against non-members. Therefore, Caribbean participation in LOME or future European Conventions, based on reciprocity, would be GATT-compatible and consistent, as would Caribbean participation in the NAFTA. Non-economic conditionality involving human rights, worker rights, and the environment could co-exist with GATT because they would not breach the fundamental principles of GATT, despite being beyond the ambit of GATT.

DILEMMA OF NAFTA AND LOME PARTICIPATION

If Caribbean countries joined NAFTA, they would be obliged to provide reciprocity to the EEC under the LOME Convention. There are two broad options to handle such a situation. Firstly, the EEC countries could treat the participation of Caribbean countries in NAFTA in a way which would obviate the enforcement of most-favoured-nation status. The EEC could permit a waiver from the reciprocity obligation. This would be a difficult proposition to market politically in the EEC, but it is certainly a possibility which should be investigated. The second option, which is the one that the Caribbean may well face, is that reciprocity will be provided by the Caribbean to both NAFTA and the EEC. There would have to be a synchronisation of the arrangements for the transition to reciprocity between the Caribbean and the EEC and between the Caribbean and NAFTA. That synchronisation would relate to the definition of reciprocity, the coverage of the agreements, and the adjustment period.

Transition to Reciprocity by Asymmetrically Phased Adjustment

The expansion of NAFTA to include Caribbean countries could proceed by granting parity with Mexico, of access to the U.S. market on a non-reciprocal basis as a transitional arrangement. After such a transitional period in which parity is given without reciprocity, there would be a period of phased reciprocity over a suitable adjustment period. The suitable adjustment period would have to take into account the differences in levels of development, export structures, and size among the various Caribbean countries. In effect, there would be an asymmetrical adjustment between the developed and less developed mem-

bers of this arrangement. Similar transitional arrangements would have to be designed for trade with the EEC.

If the Caribbean is not to repeat its experience in LOME, CBI, and CARIBCAN — that is, not fully utilising the preferential trade arrangement and changing the structure of their exports — then a new facility would have to be created. This could be called an Economic Transformation Facility and would concentrate on: (a) a reorientation of economic structures in individual countries, with a particular emphasis on developing new exports; (b) improving overall export competitiveness in both new and existing exports; (c) establishing special programmes to facilitate the replacement of dying or threatened exports, particularly those in the agricultural sectors; and (d) increasing lending to both the public sector for infrastructure and the private sector for investments. This facility would be funded by the NAFTA members and the EEC through the Section 936 pool of funds and development assistance which is now provided either bilaterally or through the EEC.

Likelihood of Reciprocity

It is very likely that both the EEC and NAFTA countries would require reciprocity. In recent years, there has been a decisive reorientation of the trade policy of industrialised countries towards developing countries, from a willingness to provide concessions in the form of preferential arrangements to a demand for reciprocal trade conditions. The shift to reciprocity has its origins in the impetus of trade liberalisation inherent in the present phase of globalisation and which is sweeping away national barriers to the international mobility of goods, services, capital, technology, and information. The prevailing perception in industrialised countries that many developing countries have retained protectionist barriers while benefitting from preferential access for their exports. It was felt that this situation was being abused by the newly industrialised countries, in particular. In addition, the U.S. trade deficit has persisted and become more difficult to finance. This coupled with the frustration of accessing markets in Europe and Asia, has strengthened the perception of unfair trade and has led to a shift in U.S. trade policy from unconditional to conditional most-favoured-nation treatment.

In this context, the U.S. has insisted on reciprocity, and has escalated the measures to ensure compliance, moving from retaliation to withholding access or the imposition of sanctions. The U.S. has both espoused "graduation" and practiced it by disqualifying certain advanced developing countries from the Generalised System of Preferences. The Clinton Administration has stated that reciprocity will be the basis of any future trading arrangements with countries in the hemisphere, including the small Caribbean economies. Furthermore, there is an increasing momentum in Europe in the direction of reciprocity away from preferential arrangement for developing countries. This is evident in the positions taken by industrialised countries in the Uruguay round.

The Caribbean must face the fact that future trade arrangements will be based on reciprocity. In the past, the Caribbean region postponed adjustment. This luxury no longer exists. The basis upon which adjustment was postponed — diplomacy, which was able to bring resources and concessions on the basis of traditional obligations, small size, and security considerations — is no longer viable. The global economic and political environment has changed. The Caribbean countries must adjust quickly if the countries in the region are not to become economic dinosaurs.

Apprehension About Reciprocal Trade

The Caribbean's apprehension of reciprocity derives from an exaggerated fear that reciprocity will be immediate and complete reciprocity. There are also concerns about the social and economic costs of structural adjustment. This is a valid concern because in these economies, structural adjustment implies both (a) resource allocation from extinct to emerging sectors and (b) resource creation for the instalment of new or upgraded productive capacity. There are risks and difficulties involved in improving quality, quantity, and price in order to survive and compete in the vast hemispheric market with a range of competitors, which include giant multi-national corporations, whose assets and sales dwarf the GDP of the combined Caribbean countries. Daunting as this appears, it can be accomplished because the fragmentation of the production process into smaller discrete processes provides opportunities and there are specialized niches in the

international division of labour which can be filled by relatively small scale operations.

The notion of differential treatment is deeply entrenched, particularly in the smaller, less developed countries, which receive longer adjustment periods even within CARICOM. It will be difficult to disabuse these countries of this tenet of their philosophy of development. There can be little opposition, however, to the concept of phasing out of differences in obligations over a long period, perhaps twenty years. Other questions include should reciprocity be complete or asymmetrical, or be partial or "relative"? Clearly, it would be difficult at the outset of an FTA to enshrine to special and differential treatment in perpetuity. Therefore, specific criteria must be established to regulate graduation to nondiscriminatory status with mutuality of concessions.

WHY RECIPROCITY CAN BE MANAGED

The Caribbean should not feel daunted or intimidated by the prospect of reciprocal trade. Although the changes required are not necessarily easy, reciprocity can be managed.

Firstly, reciprocity can have a range of connotations which cannot be reduced to equivalence in the lowering or removal but can be modified or conditional "most-favoured-nation" treatment. A symmetrical adjustment is one way to recognize and compensate for differences in the levels of development.

Secondly, substantial reciprocity has already been provided. Trade liberalization and economic reform programmes in recent years have substantially lowered tariffs and quotas. Indeed, the ironic situation exists where the United States has quotas on many exports from Jamaica, but Jamaica has no quotas on any goods except firearms entering from the United States.

Thirdly, reciprocity is not merely tariff reduction, it is much broader, encompassing investment regimes, environmental issues, and intellectual property rights. Some of the trade-offs involved in reciprocity can be in those areas in exchange for trade concessions.

Fourthly, reciprocity can be managed with an adequate adjustment period. If the Canada/US Agreement or the NAFTA are examined, some sensitive sectors have 10-15 years to phase-in elimination

of tariffs and even then, there are snap-back provisions. For example, Article 702 of the US-Canada Free Trade Agreement permits, under specified conditions, the imposition of a temporary duty on Fresh Fruits and Vegetables. There can also be safeguards, which permit a transition period, during which member countries may respond to serious injury to domestic producers by restoring tariffs for a brief period of no more than three years. Such action may be taken only once in each industry, and the exporting country is entitled to compensation. A Free Trade Agreement does not have to preclude the invoking of Article XIX of the GATT.

Finally, the free trade agreement does not necessarily mean free trade, but liberalized trade. Furthermore, for selected products and sectors there can be some special measures either to protect or exclude them from Free Trade Agreements in cases where production is concentrated on a narrow range of goods and services and exports consist of a few primary products. Again, the NAFTA and Canada/US Agreement can be cited, and if those agreements contain these provisions, there is no reason why these concessions cannot be extended to the Caribbean. It is important to note, however, that too long an adjustment period is self-defeating. The Caribbean has been adjusting to sugar and bananas for 30 or 40 years and the process continues. An extend adjustment period can be just as bad as too short a time frame.

Adjustment is Imperative

Adjustment is not only imperative, it is the norm. In today's world, in an atmosphere of globalization with rapid changes in trade, demand, and technology, the only certainty is change. Therefore the Caribbean has to recognize that adjustment is not a special period brought on by economic difficulty, but is an ongoing part of economic life. It is a principle which encompasses not only developing countries but industrialized countries as well. The Caribbean, therefore, needs to approach adjustment from a proactive point of view. In other words, Caribbean countries should not wait for these circumstances to become a reality. It is necessary to forge ahead, and to involve both the private and public sector in the process.