

**Speech to the 11th Session of the ACP-EU Joint Parliamentary Assembly on the
Negotiations of Economic Partnership Agreements**

**By The Hon. Dame Billie Miller,
Chair of the ACP Ministerial Trade Committee and Minister of Foreign Affairs
and Foreign Trade of Barbados**

Austria Center, Vienna - 20 June 2006

EPAs in Danger of Becoming Unfulfilled Promises and Expectations

Madame Co-President etc., etc.

This is my first appearance at the Joint Parliamentary Assembly. I believe that it is important to be here today: First, to seize the opportunity to extend personally my invitation for you to come to Barbados in November and secondly, because I wanted to emphasize how much the ACP value the input of the JPA in the EPA negotiations.

We are aware of your debates, reports and resolutions on the Economic Partnership Agreements (EPAs) and of the special groups established to follow the negotiations.

During the next few minutes, I will speak to four (4) issues which go to the very heart of the EPA process, the core principles, and I will show you why, on the ACP side, we fear that EPAs could become promises and expectations unfulfilled.

There are major differences between the ACP regional negotiators and the European Commission:

- (a) Timing and pace of the regional integration process;
- (b) Giving tangible expression to the concept of development in an EPA;
- (c) Approaches to tariff liberalization and market access; and
- (d) Creating an effective funding mechanism for EPA support and implementation.

Madame Co-President, I would not wish to give the impression that the ACP and the EC disagree on everything. There are areas where some progress has been made and the two sides agree on certain general principles, but the differences arise when we come to determine how to give tangible meaning to these principles in the EPAs.

In addition to the general principles, we also have a level of convergence with respect to the following:

- EPAs should be tools for development
- EPAs should support ACP regional integration processes
- The need for long transition periods to accommodate the restructuring of ACP economies and to improve their competitiveness;
- The desirability of granting improved market access to non-LDC ACP countries;
- An asymmetrical approach to trade liberalisation and the granting of special and differential treatment to ACP countries.
- The importance of introducing simplified Rules of Origin

Despite progress in the areas mentioned above, the issues on which we disagree reflect a failure by the European Commission to give meaningful expression to development in the EPA negotiations.

Let me begin with the regional integration process.

While both the ACP and the European Commission concur that one of the key objectives of an EPA is the strengthening of regional integration processes in the ACP, there continues to be a clear divergence of views on how this should be approached. The issue is not the centrality of the regional integration *per se*, but rather how its timing and pace might affect ACP regional commitments. While both sides agree that EPAs should help to strengthen the regional integration processes, there are significant differences as to how and at what speed this should be done.

In the negotiation sessions, the EC has been pressuring the various ACP regional configurations to establish Customs Unions immediately or, at least, to put in place regional arrangements which could take common commitments in all disciplines - market access schedule, SPS and TBT regimes, services, investment, government procurement, intellectual property, competition policy, dispute settlement mechanism, etc.

This negotiating approach by the Commission comes against the background of Commissioners saying that the regional integration process in the ACP should not be and is not being led by Brussels. *‘There is no hidden agenda from the EU to force countries and regions to establish regional policies that are not wanted. What we will do is support the priorities decided by the regions themselves; they call the shots.’*

The principle of each region determining its own integration priorities was reiterated when, on 1st December 2004, the EU Trade Commissioner Peter Mandelson, speaking to the ACP Council, promised *“You, the ACP, are free to decide which issue to tackle first in your own agenda for regional integration.”*

The apparent Commission determination that ACP regions should establish Customs Unions or some other common economic space is not an acceptable approach nor is it practical in the existing circumstances in most ACP regions.

Using CARIFORUM as an example, our approach to the EPA negotiations follows the principle of *variable geometry* to reflect the three aspects of the region’s integration processes: namely the Caribbean Single Market and Economy (CSME); the Organization of Eastern Caribbean States (OECS); and the CARICOM-Dominican Republic Free Trade Agreement (FTA). The situation of Haiti, the sole CARIFORUM member designated by the United Nations as an LDC, and The Bahamas, which has not yet signed-on to the CSME, further complicates the CARIFORUM reality.

In this regard, CARIFORUM has pointed out that the principle of “variable geometry” reflects the difference in scope and level of implementation between the CSME and the CARICOM-Dominican republic FTA and identifies the latter as establishing the limits of the CARIFORUM economic space that will assume commitments with the EC when an EPA enters into force at the end of 2007.

The EC's insistence on trying to determine what is best for the ACP and how we should configure our economic space seems more than a little disingenuous. It is difficult to see how the Commission can reconcile its current negotiating approach with the statements made by various Commission officials that it is up to ACP regions to determine the pace and priorities of their regional integration and that the role of the EC is to facilitate that process.

Let us turn to the crucial issue of development

There is a growing perception that the EU negotiators are down-playing the primacy of development in the EPA negotiating process. For the ACP, development is paramount and we believe that EPAs should promote the development objectives of the ACP member states and be consistent with their development strategies.

Trade and Development Commissioners Peter Mandelson and Louis Michel, as well as their predecessors Pascal Lamy and Poul Nielson, have said repeatedly that EPAs are instruments for development and not tools for opening ACP markets.

Nevertheless, European Commission negotiators, at all levels, have been making the point that their mandate is trade and not development finance. Therefore, support to address supply-side constraints and other development cooperation issues are not within their competence. This position contradicts not only the statements being made by EU Commissioners and the April 11th 2006 conclusions of the EU's own General Affairs and External Relations Council, but also goes against resolutions adopted by this Joint Parliamentary Assembly.

In my view, this approach by EU trade negotiators is neither acceptable to the ACP nor sustainable within the context of the Cotonou partnership agreement. If DG Trade has no competence to discuss the developmental aspects of EPAs, maybe DG Development should have more of a lead role in the negotiations.

Madame Co-President, the ACP is greatly concerned over the European Commission's apparent mandate to push forward with trade liberalisation while refusing to address ACP priorities in the EPA negotiations, particularly measures aimed at promoting development. In our view, there is a definite contradiction between the narrow focus on trade liberalisation and the EU's argument that EPAs are instruments for development rather than to force open regional markets. One of our concerns is that EPAs must not become instruments of oppression.

What is this Development Dimension which has become a major area of dispute between the ACP and the EU? Permit me to cite a few examples.

From the ACP perspective, development should infuse all facets of an EPA. In this context, a development-oriented EPA implies special and differential treatment for the ACP commensurate with their level of development, greater flexibility in the application of trade rules, enhanced and effective access to EU markets, sustained and effective trade capacity building measures and binding commitments on EU development support aimed at responding expeditiously and fully to legitimate ACP needs.

Addressing supply side constraints: The need to overcome the supply side constraints, which impede the ability to take advantage of the trade opportunities associated with the EPA is one of the major challenges facing ACP countries. These constraints include poorly-developed infrastructure, unreliable utilities, weak public and private sector institutions, poor management systems, inadequate market knowledge, outdated equipment, low labour productivity, high cost of investment capital, and generally uncompetitive industries.

Commissioner Mandelson, speaking at the London School of Economics on February 4th, 2005, underlined the EU's recognition of the need to assist ACP states to overcome the challenges posed by supply-side constraints, when he said "*Tangible support for development is as important an intangible as good governance. Poor countries with good governance potential, and they do exist, need tangible help with capacity building*". The Trade Commissioner also told his audience that "*Trade will not promote development without parallel investment in the supply side*".

We, in the ACP, endorse the Commissioner's statements. The problem is lack of action - or is it critical will - to give real meaning to the words.

Loss of Government Revenue associated with EPAs: In most ACP countries, the imposition of tariffs on imports represents a major source of government revenue. Therefore, the question of some form of adjustment mechanism to address the loss of government revenue resulting from EPA-induced trade liberalization and structural adjustment is pertinent within the context of the developmental aspect of an EPA.

Recent studies have indicated that, given the high percentage of government revenue which comes from tariffs in ACP countries, trade liberalisation could lead to total tariff losses for developing countries of between three (3) and ten (10) times the projected benefits. This would be particularly the case for small countries without very diverse economies, such as ours in the Caribbean, those in the Pacific, and some of the smaller economies in Africa – 48 of the 79 ACP countries have populations under 5 million - 13 from the Caribbean, 14 from the Pacific and 21 from Africa.

Commissioner Mandelson, in his speech to the ACP Council on 1st December 2004, conceded that EPAs will generate unsustainable losses of tariff revenue and went on to promise that the EU would assist with the necessary reforms of fiscal structures.

Since our countries depend on tariff revenues to fund social programmes, such as health care, education etc., the sudden loss of this revenue is likely to create much hardship and possibly lead to social dislocation as the burden will fall disproportionately on the poor. Against this background, the EU, which has been promoting "Social Cohesion" as a key aspect of its cooperation with developing countries, should be able to appreciate the need to make-up for this loss of revenue.

Approaches to tariff liberalisation

With respect to trade liberalisation in goods, the major area of divergence relates to the EC proposal seeking a single starting line for members of an EPA configuration. The crucial implication of the Commission's approach would be the establishment, at the beginning of the implementation period (January 1, 2008), of a common regional tariff for goods imported from the European Union.

The EC's single starting line proposal would also imply that the lowest applied rates by any member state in the region would become the basis for the regional trade liberalisation. ***In effect the Commission is trying to create single ACP regional markets where they do not exist and where regional member states are not ready to take such a step.***

At this time, the Commission's single starting line proposal is unacceptable to the ACP for a number of reasons, including:

- The resulting pace of tariff liberalisation would be politically unacceptable and economically damaging;
- The implied sequencing in the Commission's approach would reverse the natural order by seeking to open regional markets to the EU in advance of regional market building;
- The insistence on immediate MFN treatment is inconsistent with the EU's previous assertions that it had no mercantilist interest in ACP markets.
- The Commission's push to use applied rates goes contrary to the ACP's stated position of basing any tariff liberalisation commitments on bound rates.

Madame Co-President, I also wish to identify briefly another area of divergence between the two sides:

The Commission is seeking, in at least one region, to insert binding commitments in an EPA on an eclectic cluster of issues, including the sustainable use of natural resources (in mining, agriculture and tourism), green government procurement, investors' respect for social legislation, biodiversity and environmental goods and services. While ACP countries recognize the importance of these issues, the attempt to import them into an EPA via binding commitments is not acceptable.

On the question of binding commitments, the ACP wishes to reiterate the general principle that regions are not prepared to assume binding commitments in areas where they have no institutional capacity. This is another reason why the ACP have been arguing that the preferred approach to EPA negotiations requires attention to the development priorities before regions are prodded into liberalising their markets and undertaking other commitments.

The long awaited Monitoring Mechanism

In March 2002, even before the start of the all-ACP phase of the negotiations, the Cape Town Declaration, unanimously adopted by your Joint Parliamentary Assembly, called for the establishment of development benchmarks against which to assess the conduct and outcome of the EPA negotiations.

From the beginning of the EPA negotiating process, we were promised that EU development assistance would be sufficient and would be efficiently delivered. We were advised in January 2005 that Commissioners Mandelson and Michel would be setting up a monitoring Mechanism to ensure that development assistance would be effectively rolled out and was “*delivering the right results to build up local economic capacity*”.

In April 2005 in Mali, your Joint Parliamentary Assembly was told that the structure for this monitoring mechanism had already been established within the Commission and that they were ready to move to implementation in partnership with the ACP. **We have seen precious little evidence of this monitoring mechanism and the proposed EU assistance to build economic capacity in ACP countries has not yet materialised.**

This brings us to the Regional Preparatory Task Forces (RPTF)

The current ACP concern is that, having agreed to the establishment of the RPTFs as the links between the EPA negotiations and development cooperation, the EC seems to be making every effort to frustrate its work. Consequently, the resulting failure of the EC to deliver, in a timely manner, promised EPA-related support is one of the major setbacks in the EPA negotiating process.

In the case of the Caribbean, during discussions on the regional integration phase of the negotiations, CARIFORUM submitted in cooperation with the joint RPTF, eleven (11) proposals for possible funding. The project assessment and approval process has been frustratingly cumbersome and slow. More than a year after the initial submission of the requests, only one project has progressed to the stage where the terms of reference have been agreed.

Ironically, the CARIFORUM project proposals are intended to bolster the region’s capacity in the very areas which the EC, itself, has hitherto identified as the type of institutional weaknesses which EPAs are particularly supposed to address - areas such as Sanitary and Phyto-sanitary (SPS) requirements, competition policy, industrial and services standards, and best practices in trade facilitation.

It is against the background of this type of EC failure to respond with any urgency to ACP project proposals that ACP regions have been considering the establishment of an EPA Adjustment Facility which would avoid the burdensome EDF procedures and accelerate the funding of EPA-related projects. It would avoid the restrictive EDF procedures and it would guarantee the availability of regional development resources beyond the expiration of the Cotonou Agreement.

Madame Co-President: I will conclude with a brief reference to the EPA review which is foreseen by Article 37(4) of the Cotonou Agreement.

There has been some discussion as to whether this review should focus on the speed of the negotiations and the adequacy of the timetable established in the various negotiating regions.

I do not think that such a narrow review would suffice. In this regard, I would refer to the conclusions of the EU’s General Affairs and External Relations Council on 11 April 2006

which states that “the review should be formal and comprehensive with participation from the ACP side” and that it should cover trade and development aspects of EPAs as well as necessary measures to support the timely completion of the negotiations.

This review, which is critical for the EPA negotiating and implementation process, should involve all ACP and EU stakeholders (political, technical, legislative and civil society) and should address a broad range of issues related to EPAs, including the substance of the negotiations, the process and the support measures.

Finally, Co-President, I will end by observing that

Despite the agreement on the general principle that development should be given pride of place in the EPA, the ACP and EC have fundamentally different views on how to give tangible meaning to the concept of development. The end result is that ACP development aspirations have remained largely unfulfilled as the negotiating position being pursued by DG Trade seems to contradict the Commission’s own stated policies.

During the past eighteen (18) months, Commissioners Mandelson and Michel have repeatedly spoken about the development focus of the EPAs. Their promising words must be translated into concrete action at the negotiating table and in the implementation of development projects.

EU negotiators must be reminded that neither liberalised trade nor preferential access to EU markets, separately or jointly, will promote development by themselves; because countries suffering from capacity constraints and institutional inadequacies will not be able to make the best use of market access, even under preferential terms.

EPAs should not merely involve enhanced market access for traditional exports from ACP countries, they should help ACP countries to implement policies aimed at transforming their economies, diversifying production and benefiting from the multiplier effect associated with new value-added economic activity. This is what we have in mind when we speak about the development dimension – this is the road towards economic growth and sustainable development which we would like to walk with our EU partners.

15 June 2006