

CREATIVE ECONOMY REPORT 2010

Creative Economy: a Feasible Development Option

Box 9.3 A breakthrough to promote trade flows of cultural goods and services

The conclusion of negotiations in 2008 of an Economic Partnership Agreement (EPA) between the 27 members of the European Union on one hand, and the 15 members of the CARIFORUM¹⁷ group on the other, with provisions on the cultural sector, marked a breakthrough to liberalize trade and investments in cultural goods and services among these two important markets. The EPA replaces and extends the coverage of the trade provisions of the Cotonou Agreement, which has governed the political dialogue and economic relations between the EU and the 79 African, Caribbean and Pacific (ACP) States since 2000, aiming at expediting the economic, cultural and social development of ACP countries. The EPA is a new WTO-compatible trading arrangement, initially negotiated in the form of an interim agreement that started to be implemented for some ACP States in 2008. The EU and the Caribbean negotiators adopted the positive list approach and agreed to liberalize trade and investments between the two regions on a reciprocal basis putting more emphasis on market access issues. Over the last decade there has been a proliferation of regional trade agreements (RTA) worldwide, including among North-South regions, which tend to enforce deep trade liberalization between major trading nations and weaker partners from the developing world.¹⁸ Recently, this trend has been accentuated due to the impasses that have overtaken the multilateral trade negotiations under the WTO Doha Round.

During the negotiation process towards the EPA, there were some divergent views inside the Caribbean community as regards the positive and negative aspects of this legally binding instrument. It is recognized that challenges arise to developing countries to design policies and approaches that would maximize gains from both multilateral and regional integration processes. It is important that both processes are mutually supportive and complementary in terms of their scope, pace and the sequencing of policies and measures committed to.¹⁹ Today in 2010, the key issue is how the Caribbean countries can better benefit from the provisions of the agreement in order to obtain development support from the EU with a view to enhance local creative capacities and increase the competitiveness of their cultural and creative goods and services taking advantage of new market access opportunities.

For the first time, European countries granted market access to all entertainment services, except audiovisuals. This has never been granted before to any other region or country. “Mode-4-type” movement of services suppliers is provided for as temporary provision of services without setting up business. Through the EPA chapter on Services, Contractual

Service Suppliers, the EU Member States undertook commitments in the entertainment sector allowing for the supply of entertainment services through the temporary entry of natural persons for up to six months, without quotas. The commitments came into effect when the EPA started to be provisionally applied in 2008. The provisions cover the following cultural activities: theatrical producer and ancillary theatrical services; singer group, band and orchestra services; services provided by authors, composers, sculptors, entertainers and other individual artists; circus, amusement parks and similar attraction services; ballroom, discotheque and dance instructor services and other entertainment services. It should be pointed out, however, that the access granted to Caribbean entertainers, artists and other cultural practitioners may be subject to qualification requirements and are subject to economic needs tests. As underlined, by experts from the Caribbean Regional Negotiating Machinery (CRNM), the entertainment sector covers highly skilled categories that require many years of training such as classical concert musicians, composers, conductors etc., while the economic needs tests is not a new requirement since it has been in practice in several states for a long time. Caribbean artists, musicians and other cultural practitioners who are registered as an employer of a firm will have a legal right to offer their entertainment services to EU countries on a contractual basis, and in case of eventual difficulties a dispute resolution process can be formally initiated.

EPA is a North-South regional trade agreement that potentially may improve market access opportunities for the Caribbean in the cultural sector as it covers modes of supply of export interest to the region and also incorporates a cooperation package. The Cultural Cooperation Protocol is expected to generate development and trade gains, if effectively implemented as a mechanism for strengthening institutional, regulatory and supply capacities.²⁰ The protocol provides for bilateral cooperation on all cultural fronts with special provisions on the audiovisual sector. Technical assistance is also envisaged in the form of training, exchange of information, expertise and experiences. Moreover, EPA made a step forward by allowing for Caribbean firms to invest in entertainment activities in Europe and vice-versa. This provision is expected to facilitate joint-ventures including co-production agreements, as well as public- private partnerships and cooperation between private companies. It should be recalled that the European Union remains the world's leading donor for technical cooperation. In 2008, the European Commission and the Member States collectively provided 60 per cent of total development assistance. For ACP countries a budget of €23 billion has been allocated under the 10th European Development Fund for the period 2008-2013, nearly doubling the amount under the 9th EDF.²¹ Furthermore, the "European Agenda for Culture" was adopted in 2008, highlighting the role of culture in Europe and in EU external relations, and proposing objectives for a new common EU agenda for culture.

It is premature to draw conclusions on the positive or negative impact of the EPA cooperation agreement on development; time will show if the expected results will be achieved or not. Other developing regions should follow closely how the EPA agreement will evolve and deliver. In principle, this EPA should not be seen as a template since each

agreement should be tailor-made to suit the specific needs and the priorities of each region. Nevertheless, the EU-CARIFORUM partnership agreement opened an important precedent, particularly because previous EU trade agreements had almost nothing on cultural cooperation.

In this sense, EPA shaped the basis for future international cooperation on cultural issues and creative industries, taking also into account the engagement of the international community as regards the implementation of the UNESCO Convention and their commitment to respect and promote cultural diversity.

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