The Commonwealth Caribbean and the Challenges of Institutional Exclusion

Abstract

The paper evaluates the changes that have taken place in the political economy of global trade, particularly the growing influence of international organisations and their rules and norms, and the institutional exclusion of the Commonwealth Caribbean that has resulted. The work begins by assessing briefly the dynamics of one of the last successful trade negotiations undertaken by the Caribbean (the agreement on a single European banana market in 1993). Since then the international trading climate has altered dramatically with negative consequences for the Caribbean’s economic performance. The paper evaluates recent events in the agricultural (banana) and service (cross-border gambling and betting) sectors, which have highlighted attention on the highly influential role of the World Trade Organisation (WTO). There is also a consideration of the process of diplomacy within the WTO and an evaluation of the Caribbean’s efforts to secure its voice in the organisation. In addition, there is an analysis of the reform processes undertaken by the European Union and one of its member states (the United Kingdom) that have impacted on Caribbean interests. The paper asserts that the Caribbean has been largely excluded from the decision-making processes of the powerful organisations referred to above and despite attempts have not yet understood fully that past strategies are no longer appropriate if the region’s economic interests are to be secured in the future.

Keywords: Caribbean, globalisation, trade, diplomacy, WTO, EU
Background: the European banana market

The history of the Commonwealth Caribbean banana export trade has been one defined by close political and economic ties with Europe, and particularly the United Kingdom (UK). Indeed there was evidence that a degree of clientelism existed, whereby the government departments who had dealings with Caribbean agricultural interests identified with their concerns and policy objectives. The close relationship developed into a policy community (Richardson and Jordan, 1979) whereby both bureaucratic and group interests have a natural tendency for consensus and accommodation, based on resource dependencies. However, from the mid-1980s the intimate ties that existed between the Caribbean banana interests and the UK government began to be challenged by the increasingly influential role of the supranational European Community (EC).

In February 1986 the Single European Act (SEA) was signed, and enacted in July 1987, which laid the basis for a more integrated trading structure in the EC. The objective of the SEA was to achieve a single market by the end of 1992. One of the tasks committed to under the SEA was the elimination of internal frontier controls, which required the introduction of common rules to govern trading relations with third countries. The importation of bananas was one area of trade policy where EC members were completely at variance with the ideals of the single market. When the SEA was passed there were three distinct banana import systems: a preferential market for EC/ACP (African, Caribbean and Pacific) produced bananas in Britain, France, Greece, Italy, Portugal, and Spain; a duty-free market in Germany; and a market subject to a 20 percent tariff in Belgium, Denmark, Ireland, Luxembourg, and the Netherlands. Within the context of a single market the continuation of national regimes was unsustainable, but due to the respective obligations on the part of member states to their banana suppliers, and the difference in production methods and costs between Latin American banana imports and ACP/EC banana imports there was no single
arrangement that was readily acceptable to every member state. Thus the problem was to find a market mechanism that safeguarded the position of the ACP/EC suppliers, while encouraging some degree of competition.

The negotiations for a single European banana regime that followed were lengthy and complex with the Caribbean producer interests attempting to influence the policy-making process to their advantage. The Caribbean, with its African and European partners, made sure the European Commission did not take the initiative completely and attempted to promote a wider political debate within the other institutions of the EC, such as the European Parliament. A campaign aimed at EC member states, particularly the UK, was also developed. The parallel approach was intended to increase awareness of the arguments in defence of preferential access at all levels of European society. The work of the Caribbean lobby finally paid off, when in February 1993 a single market regime based on quota, tariff and licence protection for ACP/EC fruit was adopted. The regime came into effect on 1 July 1993. The agreement on bananas was a success story for Caribbean diplomacy and lobbying efforts with regard to the EC and its trading structures. However, victory was short lived with the creation of the World Trade Organisation (WTO) and the development of a ruled-based system to encourage the liberalisation of global trade.

The WTO and the Dispute Settlement Process

The intellectual and legal paradigms underpinning international trade have undergone major change over the last decade and a half, with the result that Caribbean trading interests have been marginalised dramatically, particularly in regard to agriculture. The period from 1993 to the present has consisted of a series of challenges against the concept and application of preferential access for Caribbean agricultural commodities into the EU market. Above all the creation of the WTO Dispute Settlement Process has meant that Caribbean countries have
become only peripheral players (‘third parties’) in defending trade regimes (including the EU banana regime) that they so successfully lobbied for in the past. The institutional nature of the international trade environment now supersedes national and regional commitments to retain long term trading relationships. However, even though the WTO has dealt a severe blow to the Caribbean’s banana and sugar trades, the region, via Antigua and Barbuda, has used the WTO to defend its interests in the service sector. In particular, Antigua took the United States (US) to task for its total ban of cross-border gambling services offered by Antiguan operators to US consumers. Antigua’s intervention was important, as it is the only instance where a Caribbean Community (CARICOM) member state has participated in dispute settlement proceedings as a party. After a lengthy dispute, the WTO ruled largely in Antigua’s favour, but the inherent biases in the organisation’s dispute settlement process made it very difficult for Antigua to get the US to change its illegal policy. The following sections assess the banana and cross-border gambling cases in more detail, and whether the Caribbean has been able to establish new coalitions and strategies in the WTO to secure their economic interests.

The banana case

An important development for Caribbean trading interests came prior to the establishment of the WTO in 1995, when the principle and application of preferential trade in certain circumstances was found to be in contravention of General Agreement on Tariffs and Trade (GATT) rules. In the early 1990s the GATT was asked by a group of Latin American banana producing countries to investigate the acceptability of providing preferential access for ACP bananas entering the EC. The GATT considered the national banana regimes of the EC that were in operation prior to the single market, as well as the single market regime itself. On both occasions the GATT ruled against not only certain aspects of the regime but also questioned the legality of the preferential arrangements set out in the EU’s Lomé Convention
(GATT, 1993 and 1994). The GATT stated that the discriminatory tariffication of banana imports was against its most favoured nation commitment (Article One), by which tariff concessions must be extended to all other members on an equal basis, and thus the Lomé Convention itself, with its particular preferential treatment of ACP goods was also unlawful.

The EU thought that the Lomé Convention was an accepted body of international law, and hence had a secure legal basis. However, after the GATT Panel rulings, the EU and the ACP countries decided that a waiver should be sought from the GATT in order to safeguard the provisions of Lomé from potentially damaging future judgements. This they achieved in December 1994. The waiver meant that the provisions of Article One of GATT did not apply. The EU was therefore permitted to provide preferential tariff treatment for products originating in ACP states, including for bananas, as required by the relevant provisions of the Lomé Convention, without being forced to extend the same preferential treatment to like products of all other GATT/WTO members. However, although the waiver covered the preferential treatment of products it did not cover the way in which that preferential treatment was provided. In the case of the EU’s banana regime, the mechanism by which bananas from ACP countries were preferred (quotas, tariffs and licences) was considered by some as going far beyond what the scope of the waiver allowed. As a consequence, the US and a number of Latin American countries, despite the fact that a waiver had been agreed, challenged the EU’s banana import system. When the banana case was considered by the WTO the effect on the Caribbean was to be dramatic.

The most significant development highlighted by the banana action at the WTO was the power of the dispute settlement process set out in the Understanding on Rules and Procedures Governing the Settlement of Disputes. The Dispute Settlement Body (DSB), consisting of WTO members, administers it. After consultations, the DSB can establish a panel to examine an issue raised by a complainant, and to pass judgement on whether the
measures under consideration conform to international trade law. If there is an appeal, the DSB then appoints an Appellate Body to consider the matter. The decision of the Appellate Body is fundamentally different from that of the panel under the previous GATT 1947 dispute settlement rules, in that an Appellate Body report has to be adopted by the DSB and unconditionally accepted by the parties to the dispute unless the DSB decides by negative consensus not to adopt the report. Such negative consensus is highly unusual, as it would need the benefiting party to reject the favourable decision of the Panel. Under the new system, any ruling is therefore adopted despite the opposition of the defendants, unlike in the GATT where a defendant was able to prevent the ruling being adopted, as adoption required unanimity. The new system thus shifts the balance of the dispute settlement process away from the defendant and towards the complainant, which means any changes to a trade regime that are set by the WTO should be implemented.

The rules underpinning the WTO have had an enormous effect on long-standing Caribbean-EU trade relations both in terms of the relationship as a whole, but also for the viability of particular commodity arrangements. The two cases heard by the WTO on the EU’s banana regime during the late 1990s (WTO, 1997 and 1999) illustrated the weight of the dispute mechanism procedure. Crucially, it allowed the US to impose sanctions worth US$191 million a year on EU exports until the required changes to the regime were made. Further, the WTO also played a key role when it came to deciding the level of tariff for the tariff-only banana import system that was introduced in January 2006, and which was part of an agreement in 2001 to meet the requirements of the earlier WTO rulings. In October 2004 the European Commission recommended a tariff level of €230 per tonne for ‘dollar’ banana imports (Caribbean bananas would retain their access at zero duty). However, in March 2005 nine Latin American countries that thought a figure closer to €75 per tonne would be acceptable asked the WTO to consider the validity of the EU’s suggested tariff. Eventually,
through WTO pressure the EU set its import duty on dollar bananas at €176 per tonne. Despite the expectation that the matter of the tariff level was closed in mid-2007 the WTO established two compliance panels, one requested by Ecuador and the other by the US, to examine the EU’s banana import regime. The specific complaint was that the €176 per tonne tariff implemented by the EU on bananas from Latin America had in fact violated past WTO decisions. Initial reports indicated victory for the complainants (Caribbean Insight, 2007c).

The cross-border supply of gambling and betting services case

In March 2003, the government of Antigua and Barbuda requested consultations with the US at the WTO in response to a series of measures introduced by the US that seemingly prevented Antigua from supplying gambling and betting services to another WTO member on a cross-border basis. The request came at a time when Antigua’s gambling and betting services industry was in retreat with steep reductions in the number of licensed gambling and betting operations, the number of people employed in the industry, and the value of government licensing fees (Thayer, 2004). After preliminary discussions came to nothing, Antigua asked the WTO to form a panel to resolve the dispute. The panel was established, and on 24 March 2004 gave its ruling (WTO, 2004). It found for the most part in favour of Antigua, stating that US restrictions against online gambling broke its international commitments. The US then appealed the ruling and the Appellate Body considered the matter.

In early April 2005, the Appellate Body’s report was issued that upheld the dispute panel’s ruling, although on slightly different and narrower grounds (Trachtman, 2005 and WTO, 2005). The Appellate Body ruled that the US had made a commitment to betting and gambling services with respect to “other recreational services (except sporting)” in its schedule of commitments to the General Agreement on Trade in Services (GATS). Further, the report stated that the US had adopted measures that went against its obligations to provide
free trade in betting and gambling services with Antigua. The Appellate Body also found that
the US could not invoke a “moral defence” to its violation of the GATS. Under Article XIV a
country can violate the terms of the free trade treaty if the violation is necessary to protect
“public morals” or maintain “public order”. But, because the US allowed “remote gambling”
in the US, primarily in the form of off-track account wagering on horse races, the use of a
moral defence to prevent companies based in Antigua from providing the same type of
gambling services was not sustainable. The verdict of the Appellate Body in support of
Antigua’s claim against the US was important, because it seemingly showed that WTO
mechanisms could work in defending the interests of the smallest nations versus the largest.

However, Antigua’s victory has so far been an empty one as the US has failed to
implement the judgements of the Appellate Body. On 10 April 2006 the US submitted a status
report to the DSB and informed it that, in its opinion it was in compliance with past rulings.
Antigua strongly rejected this argument, and asked for compliance proceedings pursuant to
Article 21.5 of the DSU. On 30 March 2007 the Article 21.5 Panel Report was circulated to
all parties and it concluded that the US had failed to comply with the rulings of the DSB
(WTO, 2007a). After the panel’s verdict had been published the US said that it would take the
unprecedented legal step of changing the international commitments it had made as part of the
GATS because it never intended to allow internet gambling services to be part of those
commitments. Thus the US declined to challenge the WTO’s adoption of the Article 21.5
Panel Report because it argued its legal manoeuvre effectively ended the case. A US trade
lawyer, Juan Millan, told the WTO that the procedure was invoked “in order to bring the US
into compliance and to resolve this dispute permanently”. He continued, “this modification
will ensure…the original US intent of excluding gambling from the scope of US
commitments” (Caribbean Insight, 2007a).
Despite this stance Antigua sought in July 2007 US$3.4 billion in compensation from the US, which if authorised would have been sourced from Antigua suspending certain obligations under the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) (copyrights, trademarks, industrial designs and patents), and thus denying royalties to US companies (Caribbean Insight, 2007b). On 21 December the WTO arbitration panel ruled that Antigua could suspend certain obligations under the TRIPS Agreement, but only up to $US21 million a year, an amount far lower that had been originally sought (WTO 2007b). Further, it was unclear how Antigua would suspend its obligations under TRIPS, and this lack of detail was criticised by the WTO arbitration panel in its report. Indeed, after the ruling Antigua’s Minister of Finance, Errol Court, said that the application of sanctions was unlikely. Rather, Antigua hoped that the threat of sanctions would be sufficient to bring about a negotiated resolution to the dispute (Antigua Sun, 2007). The US government indicated that an agreement was possible, but made clear that it would not include the re-opening of its gambling market. Instead it was likely that the US would offer Antigua greater access in some other service market. In addition, the US issued a strong warning to Antigua not to impose sanctions whilst talks continued. The US trade office said such behaviour would “undermine Antigua’s claimed intentions of becoming a leader in legitimate electronic commerce, and wound severely discourage foreign investment” in the country (New York Times, 2007). Thus, Antigua after a four-year struggle and several favourable verdicts from WTO panels has been unable to force the US to either alter its unfair trade rules or to win adequate compensation for the losses it has accrued because of them.

**Remarks on the Caribbean’s experience of the WTO’s dispute settlement process**

Although it seems at first sight that Antigua and Barbuda was more successful in using the provisions within the WTO’s dispute settlement process to defend its Internet gambling and
betting sector, than countries such as Jamaica and Dominica were in securing their banana interests, the reality is that all Caribbean states that have participated in disputes at the WTO have largely lost out.

In relation to the banana case the creation of the WTO dispute settlement process meant that the Caribbean became only peripheral players in defending a regime for which they so successfully lobbied for, while the EU was obliged to meet the legal requirements stipulated under WTO law, because of the pressure of US sanctions. The DSB of the WTO established itself as an important actor that was able to influence policy outcomes. The institutional nature of the present international trading environment superseded national and regional commitments to retain long term trading relationships. The Caribbean lobbying effort continued at the national and regional level, but there was now a new level of arbitration, in the form of the WTO, which marginalised the region’s influence. In the context of the WTO, Caribbean states were only given third party status. The status of the Caribbean was thus pre-determined because of the particular rules of the WTO, and as a consequence the region was not in a position to improve its standing within the dispute settlement process by adopting a particular strategy. A new level of decision-making thus undermined long-standing avenues of influence.

Antigua’s involvement in the dispute settlement process of the WTO highlights the opportunities but also the limitations of a small state taking action. A central concern for Antigua was the likely cost of ushering a case through the WTO. It was estimated at the start of the process that the legal fees would be in excess of US$1 million (Sanders, 2007). With the various appeals the cost has been undoubtedly higher. In order to pay the legal fees, the government recognised that a public-private partnership was necessary in which the government provided the diplomatic and political resources, and the companies in the Internet gambling and betting sector paid the legal firms directly to prepare the case. As a
consequence of this public-private partnership Antigua was able to overcome at least to an extent the resource-demanding procedures of the legal system. However, once the case was won and it was clear that the US was resisting making the required changes to its trade policy the DSM’s narrowly based retaliatory system was highlighted. Before turning to the idea of withdrawing intellectual property protection the Antiguan government was reluctant to ask the WTO to sanction retaliatory tariffs on goods (as the US had done on EU exports in the banana case) because it was felt that it would not have sufficient impact to force US compliance and would increase the cost of vital US imports required by Antigua. Indeed the possibility of withdrawing intellectual property protection also had risks for Antigua. The difficulty as Alavi argues is that small countries “cannot meaningfully retaliate against their bigger trading partners since their resulting losses would exceed any possible gains” (2007, 34). Thus, there was no real prospect of Antigua forcing the US to alter its policy. In short, the remedies provided by the WTO are inadequate for small states to gain trade justice. And as Shaffer argues “… so long as the WTO system operates in this manner, the gap between the developing countries’ WTO ‘rights’ and meaningful remedies can lead to frustration, thereby discouraging developing countries from participating in the WTO dispute settlement system” (2003, 65). Reform is on the agenda to provide small states with more adequate remedies, such as retrospective monetary damages or the collective retaliation by all WTO members against a country losing a case (Alavi, 2007, Sanders, 2007 and Shaffer, 2003). Any such reform, however, is too late for Antigua.

Commonwealth Caribbean and the WTO: Beyond the DSB

The ruling on Article One of GATT, the most favoured nation rule, and the subsequent banana case drew attention to the importance of the WTO for the Caribbean, and strengthened the view that the region should attempt to play a more active role in the organisation’s
activities. It became increasingly clear to the Caribbean particularly during the course of the banana challenge that the WTO had significant power in terms of setting the policy agenda and ruling on important matters of trade. At present 13 CARICOM states are members of the WTO, but crucially resource constraints mean that only three have a physical presence in Geneva: Barbados, Jamaica, and Trinidad and Tobago. Further even they do not employ enough staff to cope with the extremely large workload, which includes over one thousand meetings each year, often taking place simultaneously. In addition the Caribbean countries that have a small number of representatives at the WTO are required to oversee the activities of more than 20 other international agencies headquartered in Geneva, such as the United Nations Conference on Trade and Development and the International Labour Organisation. The place of those Caribbean states with no permanent missions in Geneva is of course even more marginalised.

In an attempt to help Caribbean states overcome the financial constraints experienced at the WTO, the EU in 2002 provided a grant to establish a Geneva-based ACP office (European Commission, 2002a). The expectation was that the office would help ACP countries coordinate their views and strengthen their position in WTO negotiations. The office also provides a permanent information and support service, and encourages the ACP to form common positions on particular WTO trade-related issues. The Commonwealth Secretariat also offers assistance to Caribbean governments (Sutton, 2002). For example, the Secretariat funds a trade facility in Geneva, which provides support for small states via a ‘special adviser’ to increase their role in WTO activities. In addition, the Trade Policy Formulation, Negotiations and Implementation Project known as the ‘Hub and Spokes’ initiative is designed to improve the capacity of Commonwealth states to formulate and implement coherent policies (Commonwealth Secretariat, 2002).
CARICOM states themselves have also attempted to strengthen their role within international trade negotiations through the creation of a specialised Caribbean Regional Negotiating Machinery (CRNM) in 1997. There was a belief that by pooling the limited resources, talent and capacity of the small islands in the Caribbean into one structure, trade issues could be dealt with more effectively. With this in mind the CRNM was designed ‘To assist Member States in maximizing the benefits of participation in global trade negotiations by providing sound, high quality advice, facilitating the generation of national positions, coordinating the formulation of a unified strategy for the Region and undertaking/leading negotiations where appropriate’ (CRNM, 2004).

As the mission statement implies the CRNM is responsible for all multilateral trade negotiations, including those at the WTO. Since its creation the CRNM has provided a strategic focus in relation to external trade negotiations. However, the foundation of the CRNM has created new problems for the region. From the outset some in the Caribbean questioned the need to create an extra body in addition to the trade negotiating structures already present within CARICOM. The effect has been a series of turf wars involving CARICOM and the CRNM over who has competence for external trade talks. Further, the CRNM’s dual role as technical adviser to the national negotiators and coordinator of the Caribbean regional position has proved problematic. On several occasions the CRNM has supported certain positions (as advisor), which have gone against the interests of particular CARICOM members. As is suggested by Grant the CRNM’s formation “…disrupted the equilibrium that existed between sovereignty and regionalism” (2000, 494). As a result some distrust has developed between Caribbean governments and the CRNM, which has been exacerbated by an absence of adequate coordination and consultation mechanisms between the parties. Under such circumstances CARICOM members have been reluctant to engage
fully with the CRNM, secure in the knowledge that each retains the authority to undertake trade negotiations on their own behalf.

Conflict also exists amongst CARICOM states, for example between oil and gas-rich Trinidad and Tobago and the Windward Islands over the banana issue, which constrains further the development of a region-wide negotiating strategy. Similarly, within the 79-member ACP group different national and regional priorities and interests have damaged attempts to formulate common positions, a fact that has limited the success of the ACP office at the WTO. The lack of unity on the part of the Caribbean and the ACP do not help matters but the crucial factors in determining the Caribbean’s relative isolation at the WTO relate to relative resource allocations and the way in which the organisation operates.

Although the Caribbean has attempted to strengthen its involvement at the WTO, the region is still at a great disadvantage when it comes to financial and human resource support. As this paper highlighted previously only three CARICOM states have permanent representation at the WTO, and all have problems coping with the demands placed upon them. The weak position of the Caribbean in relation to the WTO is highlighted more starkly when a comparison is made with the resources available to developed countries. The average size of developed country delegations is approximately seven, with the US having 14 full-time professional staff working solely at the WTO (Narlikar, 2001, 6, and Jawara and Kwa, 2003, 20). The large number of permanent US officials at the WTO is supported by hundreds of corporate lobbyists advising the US government on trade issues, and thus providing the country with an even more significant representational advantage within the organisation.

In addition, the dynamics of the WTO work against the Caribbean when issues of trade are being considered. For example, as Kwa (1998, 1) argues
Trade negotiations are based on the principle of reciprocity or “trade-offs”. That is, one country gives a concession in an area, such as the lowering of tariffs for a certain product, in return for another country acceding to a certain agreement. This type of bartering benefits the large and diversified economies, because they can get more by giving more. For the most part, negotiations and trade-offs take place among the developed countries and some of the richer or larger developing countries.

Other aspects of the organisation’s decision-making structure exacerbate the lack of economic bargaining power on the part of smaller members of the WTO. Even though the WTO operates on the basis of one-member-one-vote decisions are taken by consensus, and this system discriminates against the organisation’s smaller members. Decision-making by consensus, as opposed to unanimity, means that the members present at the meeting do not formally object to a particular decision. However, there is an assumption that members are present at the meetings, as the consensus-based decision-making procedure “ascribes considerable importance to having a permanent presence, or perhaps more accurately, an active knowledgeable presence” (Blackhurst et al, 1999, 6). The lack of Caribbean representation at the WTO, both quantitatively and qualitatively disadvantages the region when important issues are discussed within the organisation. However, even if certain Caribbean states are present at meetings they maybe reluctant to speak out against a particular proposal. As has been argued

The … process of consensus decision-making … is conducted through open discussion i.e. if a country wishes to reject a proposal, it must do so openly and clearly in front of other members present. Many developing countries point out
that they often fear the consequences of expressing their objections publicly, and hence choose the alternative option of remaining silent (Narlikar, 2001, 6)

With small developing countries reluctant to state their objections, acquiescing, and agreeing to support the consensus, their concerns are not heard and potentially damaging policies are adopted. Although notionally involved in making particular decisions, the reality is quite different with small developing countries being passive participants, reluctant to antagonise the more powerful developed states. Thus despite receiving the support of the CRNM, the Commonwealth Secretariat and the ACP office at the WTO the Caribbean cannot compete politically, economically or strategically with larger members of the organisation. In essence the Caribbean has an inbuilt disadvantage when issues are considered at the WTO.

**Institutional exclusion and the EU**

As has already been indicated the pressures within the international trading system have had profound effects on the EU-ACP Caribbean relationship. The EU has been forced to accede to WTO rulings that have undermined long-standing trading relationships with the Caribbean. Indeed, the entire nature of EU external trade has been transformed due to the pressures emanating from the WTO. Many of the elements of the four Lomé Conventions that underpinned EU-ACP relations from 1975 to 2000 have been lost within the context of the successor Cotonou Agreement. Perhaps the most important commitment within Cotonou was that the “ACP and the EU have agreed to conclude WTO-compatible trade agreements that will progressively remove barriers to trade between them and enhance cooperation in all areas relevant to trade” (European Commission, 2002b, 6). This commitment was met in December 2007 with the signing of an Economic Partnership Agreement (EPA), which allowed Caribbean goods – with a temporary exception for rice and sugar – to enter the EU market
duty free and quota free. It also permitted EU goods to access Caribbean markets freely over a phased three to 25-year period, notwithstanding several exclusions for sensitive products. The EPA replaced the old trade regime that granted exports from the ACP group of countries non-reciprocal preferential access to the EU market.

From the beginning of the EPA talks the most important concern for the Caribbean was to have a negotiating framework that would best help secure the region’s interests, and in April 2004 a three-tiered structure was set up to undertake the negotiations with the EU. It was hoped that a well-disciplined and united team of negotiators would be created to defend and effectively safeguard Caribbean interests in the EPA discussions. However, even though an agreement was reached the region did not perform that well in the negotiations. There was an absence of clarity in relation to several key issues, such as the respective importance of Caribbean agriculture and services in the EPA, the particular Caribbean nations to be included, and the extent and speed of tariff liberalisation. This caused disenchantment among some governments regarding the institutional arrangements for the negotiations. Principally there were criticisms of CRNM officials for not briefing ministers in a timely manner and for superseding their political mandate. So yet again conflict between the CRNM and ministers was apparent, and weakened the region’s negotiating position. Such divisions demonstrated the wider problem of weak regional decision-making in the Caribbean that has been present for a number of years.

Such weakness has been exacerbated by concerns that the region-specific phase of the EPA discussions might set a precedent and lead to a gradual fragmentation of the long-influential ACP group, as the Caribbean negotiated with the EU on a bi-lateral basis while parallel talks were conducted between the EU and other regions and sub-regions of the ACP. While the group’s Secretary-General Sir John Kaputin has stressed the importance of unity and solidarity across the ACP regions, there is a real possibility that with individual regions of
the ACP following different paths, the strength and coherence of the group will be undermined. This may have a detrimental effect on future negotiating outcomes primarily for the Caribbean with its limited human and financial resource capacity.

A separate issue that has consequences for Caribbean-EU relations is the re-positioning of the development brief within the EU. In 1999 plans were put in motion to fundamentally restructure the Commission, which included the downgrading of the Directorate-General (DG) for Development. The Development DG, which had a pivotal role in the banana negotiations of the early 1990s, lost its responsibility for ACP trade policy. The Trade Commissioner now oversees all trade matters, and there are concerns that the important historical link between trade and development has been broken. With these issues being considered in separate DGs it is likely that there will be less coherence between development and trade, and that EU development objectives will be displaced by the Union’s foreign policy priorities. Indeed, it has been argued that, “development (aid) will become a tool of foreign policy” (European Union Committee, 2004, 28). This perception was confirmed in a strategy paper produced in 2003 by Javier Solana, the EU’s High Representative for the Common Foreign and Security Policy. The paper, *A Secure Europe in a Better World*, suggested that external assistance should support the EU’s security agenda, in the priority areas of terrorism, failed states, proliferation of weapons of mass destruction and organised crime (Solana, 2003). For the Commonwealth Caribbean, only the last issue has some resonance, and even then it is likely that other regions will be prioritised.

But perhaps the greatest challenge for the region is to establish a strong voice within the newly enlarged EU. The Union now includes twelve new states, ten of which from Central and Eastern Europe have little or no interest in the Caribbean. Also, the new members have relatively high levels of poverty with wage levels and living standards far below the levels present in the states that were EU members prior to the 2004 enlargement. The relative
poverty of the accession states has meant that they have been conditioned to receive aid rather than to give it. As a consequence, there is little sympathy for, or understanding of, the challenges facing the Caribbean. This lack of interest will now be felt in all aspects of EU activity and decision-making. Therefore, as opposed to the situation in the early 1990s, there is now a majority of EU member states who have no historical ties to the ACP countries whatsoever, meaning that the balance within the Union has now shifted away from the ACP towards other geo-strategic interests, such as Russia to the East, and the Balkan states to the South. As has been suggested, “the Europe that the Caribbean has grown up with will cease. In its place will be a Union with a radically different relationship to the Caribbean and other relatively marginal regions of the world” (Jessop, 2004).

Although the process of EU enlargement to the East begun in 1998, its significance has been largely neglected by the Caribbean. There has only been minimal contact between Caribbean governments and business, and the new member states. While few attempts have been made on the part of the Caribbean to fully understand how a newly enlarged EU will make decisions on issues that matter to the region. Grenada’s Prime Minister Keith Mitchell, for instance, advised that the region should adopt a “wait and see” approach to EU enlargement, arguing that “we don’t know what will happen” (Caribbean Media Corporation, 2004a). Such a statement is more worrying in the light of comments made by Ambassador Amos Tincani, head of delegation of the European Commission to Barbados and the Eastern Caribbean, who stated “The long-term implications [of EU enlargement] will much depend on the capacity of Caribbean countries to clearly convey their policy aspirations and concerns…” (Caribbean Media Corporation, 2004b). There is little evidence to suggest that the Caribbean has begun to do this. Indeed, it took a recent Polish delegation to St Lucia, that wanted Castries to back Poland’s bid to host the 2012 World Exposition, to suggest that in return it could help support Caribbean interests in the EU (BBC Caribbean.com, 2007).
Institutional exclusion and the UK government

It is apparent that Caribbean governments and business have much to do in order to persuade the new EU member states of the importance of their interests and agenda. However, the situation has become even more complicated for the Caribbean with a wide-ranging foreign policy review having been undertaken by the UK; a country that has traditionally close ties with the region. The impetus for change came in December 2003 with the publication of a ten-year Foreign and Commonwealth Office (FCO) strategy paper – *UK International Priorities: A Strategy for the FCO* – that set out the priorities for future foreign policy (FCO, 2003). The FCO’s position was reaffirmed subsequently with the publication of a second White Paper in March 2006, entitled *Active Diplomacy for a Changing World: The UK’s International Priorities* (FCO, 2006).

The FCO strategy attempts to re-align the UK government’s foreign policy agenda to address the international environment created after the 11 September 2001 terrorist attacks on the US, and via the continuing process of globalisation. As a consequence a number of key priorities are stressed including security, weapons proliferation, terrorism, drug trafficking, and the guaranteeing of UK energy supplies. In order to do this a number of geographical regions have been prioritised, in particular the Middle East and Africa. The Caribbean region is almost completely ignored within both documents. Indeed, it seems that UK policy towards the Caribbean is now focused primarily on issues relating to security and law enforcement (Clegg, 2006).

In addition the FCO strategy documents indicated that there would be a general downgrading of geographical concerns and a greater concentration on cross cutting issues. Therefore the Caribbean can no longer depend on the UK government to maintain a specific interest in the region. The region must attempt to influence UK government thinking on cross cutting issues such as security and law enforcement in order for its voice to be heard. This
scenario is much more problematic as on these issues the Caribbean is in competition with other regions of the world that have higher strategic importance for the UK. Unless the Caribbean can find new ways of projecting its concerns it is likely that its views will be marginalised within the context of the new FCO strategy.

In fact the region must recognise that other UK government departments are also downgrading relations. The Department for Business, Enterprise and Regulatory Reform (formerly the Department of Trade and Industry) and the government’s trade promotion agency, UK Trade and Investment, have reduced their roles in the Caribbean, while funding from the Department for International Development has been cut back. Indeed it is expected that the reductions in funding will quicken in pace over the next few years (Clegg, 2006). The effects of the FCO strategy are now being seen across Whitehall and the region must appreciate the major changes that are taking place.

**Conclusion**

It can be argued that the ACP and particularly the Caribbean banana interests were highly effective in their lobbying efforts within the EU in the late 1980s and early 1990s. But the creation of the WTO dispute settlement process meant that Caribbean countries became only peripheral players in defending a regime for which they had so successfully lobbied. Rather, the EU was obligated to meet the legal requirements stipulated under WTO law. There is now a new level of arbitration, in the form of the WTO that has marginalised Caribbean commodity interests. For Antigua and Barbuda, it was able to use to the organisation’s dispute settlement process to defend, as least in legal terms, its interests in the Internet gambling and betting sector against the US. However, the inherent biases in the WTO’s dispute settlement process, chiefly the limitations of imposing financial penalties against large states to enforce compliance, has meant that in reality Antigua has found it very difficult to force the US to
change its illegal policy. Indeed, issues relating to small size and resource constraints in the WTO more generally have restricted the Caribbean’s participation in this most important of organisations. Such marginalisation has also been witnessed within the EU and the UK, which is posing further challenges to Caribbean diplomacy.

In these conditions the Caribbean must improve its responsiveness to the political and economic challenges that are now being felt. Chiefly, the Commonwealth Caribbean must further regional integration as an integrated CARICOM will have a stronger diplomatic voice on the global stage. Also, the region must focus its efforts on realizing its priority goals. In particular, the Caribbean can strengthen its role at the WTO via increasing and improving policy coordination and information exchange between regional capitals, national officials in Geneva and the CRNM; developing country and cross-issue coalitions to pool data and resources and to increase legitimacy; and realising that a positive agenda is necessary to establish credibility in the organisation. An added measure to maximise the effectiveness and efficiency of Caribbean diplomacy would be the reform of the region’s overseas missions both in terms of their location and structure. Within the context of the EU the Caribbean must engage pro-actively with the new members of the EU, in order to improve its influence on policy decisions that are relevant to the region. Further, the region needs to recognise that it can no longer depend on long-standing European allies, such as the UK, for political and economic support. This suggests the need to establish a new set of foreign relations that gives added weight to countries such as Brazil, China, India and South Africa. However, providing a rationale for these countries to engage with the Caribbean will not be easy. Nevertheless, the changed environment must be recognised, and a more focused strategy enacted. The action required by the region to improve its negotiating position is substantive, and further reforms must be undertaken if the Caribbean has any chance of resisting the tide of growing institutional exclusion.
Notes

1. On 27 September 2002, Australia and Brazil requested consultations with the EU concerning the export subsidies provided by Brussels in the framework of its Common Organisation of the Market for the sugar sector (Thailand requested consultations with the EU on the same matter in March 2003). On 9 July 2003, Australia, Brazil and Thailand requested the establishment of a panel, and this was then created. In October 2004 the WTO ruled that EU subsidies, which benefited sugar producers in the Caribbean and elsewhere, broke global trade rules. In particular, the organisation supported claims by the complainants that aid to EU and ACP producers distorted world prices. The WTO’s Appellate Body then upheld most of the first ruling. In response the EU agreed to revise its regime in late 2005, which included a measure to phase in over four years a 36 percent cut in the EU’s guaranteed sugar price. Then in September 2007 the EU announced that its sugar protocol would end entirely in 2009.

2. When the GATT waiver expired, a further derogation was agreed at the WTO in November 2001, this time for the provisions within the new EU-ACP Cotonou Agreement. The second waiver lasted until 31 December 2007. The waiver was agreed after a compromise was reached which involved granting Latin American countries the right to challenge the EU’s revised (post-2001) banana regime if their levels of market access were damaged by the application of the ACP preference. A fringe agreement was also made with Thailand and the Philippines over the EU’s preferential treatment of canned tuna imports from the ACP. For their part ACP countries had threatened to block progress on the Doha Round unless the EU waiver request was approved.
References


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