

AGREEMENT ESTABLISHING THE FREE TRADE AREA BETWEEN THE CARIBBEAN COMMUNITY AND THE DOMINICAN REPUBLIC

The Caribbean Community (CARICOM), of the one part, and the Dominican Republic, of the other part, (which hereinafter shall be referred to as "the Parties");

CONSIDERING growing process of economic globalisation and the intensification of the regional and sub-regional economic integration processes in which the Parties are deeply involved, and with the purpose of achieving more adequate integration in these processes and a more significant joint presence at their fora of negotiation;

CONSIDERING the urgent need to broaden the markets of the Parties in order to achieve the economies of scale that will support better levels of efficiency, productivity and competitiveness;

CONSIDERING that the symmetry and complementarity that exist between the economies of the Parties enable them to achieve levels of cooperation and integration that favour the economic development of both Parties;

CONSIDERING the significance accorded by the Parties to the development of closer, more dynamic and balanced trade and investment relations between them, with clear and accurate guidelines that permit full participation of all economic agents;

CONSIDERING the importance that the Parties accord to economic co-operation between them for their economic development;

CONSIDERING that in order to achieve a balance of rights and obligations within the framework of this Agreement, liberalisation should include trade in goods and services, and investment regimes;

CONSIDERING the rights and obligations of Member States of CARICOM and the Dominican Republic as Members of the World Trade Organisation (WTO), and other relevant international agreements as well as those existing among the Member States of CARICOM under the Treaty of Chaguaramas;

The Parties agree to create a Free Trade Area that includes Trade in Goods and Services, Investment and Economic Co-operation.

Article I. Establishment of the Free Trade Area

1.

(i) The Free Trade Area between CARICOM, comprising the States listed in 1 (ii) and the Dominican Republic, (hereinafter referred to as "the Parties") is hereby established.

(ii) Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines, Suriname and Trinidad and Tobago.

2. For the purpose of this Agreement, its Annexes and Appendices, reference to the "territory of the Parties" shall:

(i) for each Member State of CARICOM mean its territory, as well as its maritime areas, including the seabed and subsoil adjacent to the outer limit of the territorial sea, over which that State exercises, in accordance with international law, jurisdiction or sovereign rights for the purpose of exploration and exploitation of the natural resources of such areas;

(ii) for the Dominican Republic mean the land areas, maritime area, air space, subsoil as well as the airspace above them in accordance with its national legislation and international law.

3. For the purpose of this Agreement, its Annexes and Appendices, the More Developed Countries of CARICOM (hereinafter referred to as "the MDCs") are:

(i) Barbados

(ii) Guyana

(iii) Jamaica

(iv) Suriname

(v) Trinidad and Tobago

4. For the purpose of this Agreement, its Annexes and Appendices, the Less Developed Countries of CARICOM (hereinafter referred to as "the LDCs") are:

(i) Antigua and Barbuda

(ii) Belize

(iii) Dominica

(iv) Grenada

(v) Montserrat

(vi) St. Kitts and Nevis

(vii) Saint Lucia

(viii) St Vincent and the Grenadines

Article II. Objective

The fundamental objective of the Agreement shall be to strengthen the commercial and economic relations between the Parties through:

(i) the establishment of a Free Trade Area between the Parties consistent with the Marrakesh Agreement Establishing the World Trade Organisation (the WTO);

(ii) the promotion and expansion of the sale of goods originating in the territories of the Parties through, inter alia, free access to the markets of the Parties, elimination of non-tariff barriers to trade, and the establishment of a system of Rules of Origin, Customs Co-operation and the Harmonisation of Technical, Sanitary and Phyto-Sanitary Procedures;

(iii) the progressive liberalisation of trade in services;

(iv) The liberalisation of the movement of capital between the Parties, and the promotion and protection of investments aimed at taking advantage of the opportunities offered by the markets of the Parties, and the strengthening of their competitiveness;

(v) the promotion of the active participation of private economic agents with a view to deepening and broadening the economic relations between the Parties, including the promotion and establishment of joint ventures;

(vi) The promotion and development of cooperative activities in the following areas: agriculture, mining, industry, construction, tourism, transportation, telecommunications, banking, insurance, capital markets, professional services and science and technology;

(vii) The discouragement of anti-competitive business practices between and within the Parties.

Article III. The Joint Council

1. The Parties hereby establish a Joint Council comprising representatives of both Parties.

2. The Joint Council (hereinafter referred to as "the Council") shall:

(i) supervise the implementation and administration of the Agreement, its Annexes and Appendices;

(ii) resolve any dispute which may arise out of the interpretation, execution of, or non-compliance with, or application of this Agreement, its Annexes and Appendices in accordance with its powers under Article XV dealing with Settlement of Disputes;

(iii) establish and delegate responsibilities to ad hoc or standing committees, working groups or expert groups;

- (iv) Supervise the work of all ad hoc or standing committees, working groups and expert groups established under this Agreement, its Annexes and Appendices;
- (v) consult with governmental, inter-governmental and nongovernmental entities as necessary;
- (vi) Keep this Agreement, its Annexes and Appendices under periodic review, evaluating the functioning of this Agreement and recommending measures it considers suitable to better achieve its objective;
- (vii) Carry out any other functions which maybe assigned to it by the Parties;
- (viii) Consider any other matter that may affect the operation of this Agreement, its Annexes and Appendices and take appropriate action.

3.

- (i) The Council shall establish its rules and procedures.
- (ii) All decisions shall be taken by consensus.
- (iii) The decisions of the Council shall have the status of recommendations to the Parties.

4. Each Party shall designate a representative to transmit and receive correspondence on its behalf.

Article IV. Meetings of the Joint Council

- 1. The Council shall convene in ordinary session at least once a year and in extraordinary sessions at such other times as may be agreed between the Parties.
- 2. The meetings of the Council shall be chaired jointly by the Parties.
- 3. Meetings shall be held alternately in the Dominican Republic and in a Member State of CARICOM or such other place as maybe agreed between the Dominican Republic and CARICOM.
- 4. The Agenda for each ordinary meeting of the Council shall be settled by the Parties at least one month before each proposed meeting.

Article V. Trade In Goods

- 1. The Parties agree to implement a programme to liberalise the trade in goods between them.
- 2. The conditions under which goods covered by this Agreement will be traded in the Free Trade are set out in the Agreement on Trade in Goods that appears as Annex I.
- 3. The Rules of Origin shall be those set out in Appendix I to Annex I.

Article VI. Trade In Services

The Parties agree to progressively liberalise trade in services between themselves by the establishment of a framework of principles and rules as contained in the Agreement on Trade in Services that appears as Annex II.

Article VII. Investments

The Parties agree to promote and facilitate investments within the Free Trade Area through the provisions contained in the Agreement on Reciprocal Promotion and Protection of Investments that appears as Annex III.

Article VIII. Trade Financing

- 1. The Council shall periodically review trade financing arrangements between the Member States of CARICOM and the Dominican Republic and recommend those mechanisms which may be implemented to facilitate this activity.
- 2. The Parties, recognising the importance of timely payments for the development of trade, undertake to ensure that neither the Dominican Republic nor any Member State of CARICOM shall impose undue impediments to trade transactions and the corresponding timely payment for goods and services traded within the context of this Agreement.

Article IX. Economic Cooperation

1. The Parties agree to develop a broad co-operation programme in the following areas: agriculture, mining, industry, construction, tourism, transportation, telecommunications, banking, insurance, capital markets, professional services, and science and technology and such other areas as may be agreed by the Parties.
2. The Parties agree to encourage joint production of goods and collaboration in the provision of services, especially those intended to take advantage of market opportunities in third states.

Article X. Double Taxation Agreements

The Parties agree to work towards the adoption of agreements to prevent and avoid double taxation between the Member States of CARICOM and the Dominican Republic.

Article XI. Government Procurement

The Parties agree to work towards the adoption of an agreement to encourage and facilitate greater participation by their economic entities in business opportunities arising from government procurement activities.

Article XII. Intellectual Property Rights

1. The Parties agree to develop and adopt an Agreement on Intellectual Property Rights, taking into account the rights and obligations provided for in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), contained in Annex IC of the Agreement establishing the WTO, and other relevant international agreements to which all the Member States of CARICOM and the Dominican Republic are signatories.
2. Pending the adoption of the Agreement referred to in paragraph 1, the provisions of the TRIPS and the other relevant international agreements to which all the CARICOM Member States and the Dominican Republic are signatories will apply to intellectual property rights issues which may arise between them.

Article XIII. Private Sector Activities

The Parties agree to promote active participation of the private sector in the fulfillment of the objective of this Agreement. To this end, the Parties establish a CARICOM/Dominican Republic Business Forum to analyse trade and investment opportunities, exchange business information and organise business encounters, and deal with any other relevant matter including any matter as may be referred to it by the Council. The Forum shall regulate its own procedures and may make recommendations to the Council on any matter within its competence.

Article XIV. Committees

There shall be the following Standing Committees which shall operate under the guidance of the Council:

- (i) Committee on Trade in Goods;
- (ii) Committee on Technical Barriers to Trade;
- (iii) Committee on Sanitary and Phyto-Sanitary Measures;
- (iv) Committee on Rules of Origin and Customs Cooperation;
- (v) Committee on Trade in Services;
- (vi) Committee on Investment;
- (vii) Committee on Intellectual Property Rights;
- (viii) Committee on Anti-Competitive Business Practices;
- (ix) Any other Committee which may be established by the Council pursuant to Article III 2(iii).

2. Each Committee shall, inter alia, have the following functions:

- (i) Monitor the implementation of the provisions of the Agreement, Annex or Appendix within its area of competence;
 - (ii) consider all matters relating to the subject area within its competence, including such matters as may be referred to it by the Parties;
 - (iii) consult on issues of mutual concern relating to its subject area which arise in international fora;
 - (iv) Facilitate information exchange among the Parties;
 - (v) create working groups or convene expert panels on topics of mutual interest relating to its subject area;
 - (vi) Any other function assigned to it by the Council.
3. Each Committee shall meet as may be agreed by its members and shall regulate its own proceedings.

Article XV. Settlement of Disputes

1. The Parties agree to adopt the following Rules for the Settlement of Disputes arising under this Agreement, its Annexes and Appendices.
2. The Rules governing Settlement of Disputes (the Rules) shall apply to all disputes between the Parties relating to interpretation, application, execution of or noncompliance with the provisions of the Agreement, its Annexes and Appendices with the exception of matters covered in Annex III.
3. The Parties shall first seek to resolve any dispute referred to in paragraph 2 above through informal consultations and seek to arrive at a mutually satisfactory solution. In the case of perishables, the Parties shall notify the Council immediately of the dispute and of the action being taken.
4. Where the Parties fail to arrive at a mutual solution within 30 days, or in the case of perishables within 10 days, pursuant to paragraph 3 above, the aggrieved Party may deliver to the other Party a request in writing for the intervention of the Council. The request to the Council shall contain sufficient information to enable examination of the request.
5. The Council shall ordinarily meet within 15 days of receipt of a request and, in the case of perishables, within 5 days of receipt of a request. In special circumstances the timeframe may be adjusted by mutual agreement between the Parties. The Council shall render its decision within a reasonable time.
6. The Council may engage expert advisors in seeking solutions to disputes between the Parties.
7. The Council shall within one (1) year after the entry into force of this Agreement establish mechanisms for the settlement of disputes.
8. Pending the adoption of mechanisms provided for in paragraph 7, the Council may exercise the option of conciliation, mediation and/or arbitration to resolve any dispute which may arise between the Parties.

Article XVI. Amendments

1. This Agreement, its Annexes and Appendices may be amended by the Parties. Proposals made by one Party for amendments shall be submitted to the Council for its consideration.
2. Amendments shall enter into force once the Parties have notified each other through diplomatic channels, that all internal legal procedures have been completed.

Article XVII. Evaluation of the Agreement

Three (3) years after the entry into force of this Agreement, the Council shall carry out an evaluation of the Agreement, its Annexes and Appendices with respect to the achievement of their objectives and recommend what further measures may be taken to achieve them. The recommendations shall take into account any national, regional and international developments affecting the matters covered by this Agreement, its Annexes and Appendices.

Article XVIII. Termination

1. Any Party may at any time withdraw from this Agreement by giving written notice of termination to the other Party. Termination shall take effect six (6) months after such notice is received by the other Party. The rights acquired and the

obligations assumed under this Agreement shall cease on the effective date of termination, except as provided in paragraphs 2 and 3 of this Article.

2. Obligations undertaken prior to termination with respect to trade in goods and services shall continue in force for a further period of one year, unless the Parties agree to a longer period.

3. The provisions of the Agreement on the Reciprocal Promotion and Protection of Investments (Annex III) shall continue to apply to investments established or acquired prior to the date of termination, for a period of ten years from the date of termination, except in so far as those provisions extend to the establishment of covered investments.

Article XIX. Accession by other States

1. This Agreement shall be open to other States subject to prior negotiations between the Parties and those States which have requested to become Parties to this Agreement.

2. The negotiations shall take into account that this Agreement, its Annexes and its Appendices establish preferential treatment by the Dominican Republic to the Less Developed Member States of CARICOM by reason of their lesser degree of development.

Article XX. Status of Annexes and Appendices

The Annexes and Appendices of this Agreement shall form an integral part thereof.

Article XXI. Depositary

This Agreement shall be deposited with the Secretary-General of the Caribbean Community who shall transmit certified copies to the Parties.

Article XXII. Entry Into Force

This Agreement, its Annexes and Appendices shall enter into force on the 1st. day of January 1999, or as soon thereafter as the Parties have notified each other through diplomatic channels that all internal legal procedures have been completed.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorised, have affixed their signatures to this Agreement.

DONE AT Santo Domingo in the Dominican Republic in the English and Spanish languages, both being equally authentic, this 22nd day of August 1998

For the Caribbean Community

SIGNED

Dr. the Hon. Kenny Anthony

Chairman of the Conference of Heads of Government of the Caribbean Community

For the Government of the Dominican Republic

SIGNED

Dr. the Hon. Leonel Fernandez Reyna

President of the Dominican Republic