

AGREEMENT BETWEEN THE CARIBBEAN COMMUNITY (CARICOM) AND THE GOVERNMENT OF THE REPUBLIC OF VENEZUELA ON TRADE AND INVESTMENT

The Caribbean Community and the Government of the Republic of Venezuela (hereinafter together called the Parties):

RECALLING the Principles for a Multilateral Agreement between the Caribbean Community and Venezuela which was signed between them at Basseterre, St. Kitts and Nevis on the 1 st day of July, 1991;

AWARE of the necessity of accelerating the Caribbean and Latin America integration process and the significance accorded by the Parties to the various sub-regional integration processes, as a means of achieving greater international competitiveness of the Region and of facilitating their full development;

TAKING INTO ACCOUNT the different levels of economic development between Venezuela and the Member States of CARICOM;

CONSIDERING the desirability of developing a more dynamic and balanced commercial and economic relationship between them;

CONSIDERING the advantage of formulating clear and accurate guidelines that permit their different economic entities greater involvement in the economic development of Venezuela and the Member States of CARICOM;

HAVING regard to the rights and obligations of the Member States of the Caribbean Community (CARICOM) under the Treaty establishing the Caribbean Community and the rights and obligations of Venezuela in the Cartagena Accord (Andean Group) and the Latin American Integration Association (ALADI), as well as the rights and obligations of Venezuela and those Member States of the Caribbean Community which are parties to the General Agreement on Tariffs and Trade (GATT);

DECIDING to establish closer trade and investment relations between them;

AGREE to implement the following:

Article 1. Objective

The fundamental objective of this Agreement shall be to strengthen the economic and trade relations

Between the Parties through:

- (a) the promotion and expansion of the sale of goods originating in CARICOM through, inter alia, one-way duty-free access to the Venezuelan market;
- (b) the stimulation of investments aimed at taking advantage of the markets of the Parties and strengthening their competitiveness in world trade;
- (c) the facilitation of the creation and operation of regional joint ventures; and
- (d) the encouragement of mechanisms for the promotion and protection of investments by nationals of the Parties.

Article 2. The Joint Council

1. The CARICOM/Venezuela Joint Council on Trade and Investment (The Joint Council) established by the Principles for a Multilateral Agreement between Venezuela and CARICOM shall be responsible for the administration of this Agreement.
2. The Joint Council consists of representatives of Venezuela and CARICOM.

3. The functions of the Joint Council shall be:

(a) to ensure compliance by the Parties with the provisions of this Agreement;

(b) to resolve any problems which may arise out of the application of this Agreement;

(c) to keep this Agreement under constant review, evaluate the functioning of this Agreement and recommend measures it considers suitable to better achieve the objective of this Agreement;

(d) to carry out any other functions which may be assigned to it by the Parties.

4. The decisions of the Joint Council shall have the status of recommendations to the Parties to this Agreement.

Article 3. Meetings of the Joint Council

1. The Joint Council shall meet at least annually at such time as may be agreed between the Parties.

2. The meetings of the Joint Council shall be chaired jointly by the Parties.

3. Meetings of the Joint Council shall be held alternately in Venezuela and a Member State of CARICOM or such other place as may be agreed between Venezuela and CARICOM.

4. The Agenda for each meeting of the Joint Council shall be settled by the Parties at least one month before each proposed meeting.

5. The Council may regulate its own procedures and may establish subsidiary bodies to assist it in the execution of its functions.

Article 4. Liberalisation Programme

1. Venezuela agrees to grant products originating in Member States of the Caribbean Community (CARICOM) free access to its market by means of the implementation of programmes of tariff reduction and the elimination of non-tariff barriers. To this end:

A. the CARICOM Exportable Offer will have the following treatment:

(i) immediate duty-free access for products set out in Annex I;

(ii) phased reduction of the duties applicable on products set out in Annex II as

Follows:

(a) starting 1 January 1993 - 75 per cent of the MFN rate of duty will apply

(b) starting 1 January 1994 - 50 per cent of the MFN rate of duty will apply

(c) starting 1 January 1995 - 25 per cent of the MFN rate of duty will apply

(d) starting 1 January 1996 - duty-free treatment will apply;

(iii) the MFN rate will apply to the products set out in Annex III;

(iv) the Joint Council, at its Meetings may consider and decide on any requests by the Parties for the modification of the treatment to be accorded to any item referred to in sub paragraphs (i), (ii), and (iii) above;

B. for products other than those listed in (A) above, the MFN rate will apply unless otherwise decided by the Joint Council.

2. For the purposes of this Agreement duty shall be understood to mean the customs duties and any other charges of equivalent effect, whether fiscal, monetary, exchange or of any kind, which are incurred by imports. Not included under this concept are rates and analogous charges when they represent the cost of the services rendered.

Article 5. Rules of Origin

The Rules of Origin to be applied under this Agreement shall be those set out in Annex IV.

Article 6. Treatment of Imports Into Caricom from Venezuela

1. The Parties agree that CARICOM will grant most-favoured-nation treatment in the application of the Customs Tariff in respect of all imports from Venezuela.
2. CARICOM also undertakes to consult with Venezuela in the Joint Council when any charges in the rate structure of the Customs Tariff are contemplated.
3. CARICOM further undertakes that Member States of CARICOM will not, without prior consultation with Venezuela, apply any quantitative restrictions, beyond those currently in place or those authorised under the Treaty establishing the Caribbean Community, with respect to imports from Venezuela.

Article 7. Technical Norms

The Joint Council shall study the technical, industrial, commercial norms and those governing public health of the Parties and shall recommend the actions which it considers necessary to ensure that these norms do not constitute an obstacle to trade between the Parties.

Article 8. General Exceptions

This Agreement allows the adoption or enforcement by Venezuela or any Member State of CARICOM of measures such as the following, provided that they are not used as obstacles to trade:

- (a) necessary to protect public morals;
- (b) necessary for the prevention of disorder or crime;
- (c) necessary to secure compliance with laws or regulations relating to customs enforcement, or to the classification, grading or marketing of goods, or to the operation of monopolies by means of state enterprises or enterprises given exclusive or special privileges;
- (d) necessary to protect industrial property, trademarks, or copyrights or to prevent deceptive practices;
- (e) relating to gold or silver;
- (f) relating to the products of prison labour;
- (g) imposed for the protection of national treasures of artistic, historic or archaeological value;
- (h) necessary to prevent or relieve critical shortages of foodstuffs in any exporting Party, or
- (i) relating to the conservation of exhaustible natural resources.

Article 9. Treatment of Investments

1. The Parties undertake to encourage the promotion and protection of investments by their nationals through the conclusion of bilateral investment treaties between the individual Member States of CARICOM and Venezuela, in accordance with national laws and legislation.
2. The Parties agree that the conclusion of the bilateral investment treaties referred to in paragraph 1 should facilitate inter alia:
 - Movement of Capital
 - Right of Establishment
 - Joint Ventures
 - Repatriation of Profits
 - Possibility of CARICOM Member States raising loans for establishment of enterprises in Venezuela through the Caribbean Development Bank.
3. The Parties agree that Venezuela nationals may purchase that part of the equity in CARICOM enterprises which is owned by individual CARICOM Governments in exchange for debt owed to the Government of Venezuela by such Member States of

CARICOM.

Article 10. Double Taxation Agreements

The Parties agree to work toward the adoption of double taxation agreements between the Member States of CARICOM and Venezuela.

Article 11. Trade Promotion

The Parties agree to establish trade promotion programmes; facilitate the activities of official and private missions; organise fairs and expositions, continuous exchange of information, market studies and other activities leading to the maximum utilisation of the preferences of the liberalisation programme and of the opportunities offered by the procedures agreed on in the area of trade.

Article 12. Trade Financing

1. The Joint Council shall keep trade financing under constant review and decide what mechanisms may be implemented to facilitate the financing of trade between CARICOM Member States and Venezuela.

2. The Parties, recognising the importance of timely payments for the development of trade, undertake to ensure that neither Venezuela nor any Member State of CARICOM imposes undue impediments to the prompt payment for goods traded within the context of this Agreement.

Article 13. Trade In Services

1. The Parties recognise the importance of trade in services for the development of their economies

2. The Parties further recognise that it will be opportune and necessary to develop co-operation in this sector when the outcome of the Uruguay Round of Multilateral Trade Negotiations in the GATT is known. To this end, the Parties will negotiate amendments or further elaboration of this Agreement to take account of and to take advantage of the outcome of these negotiations.

Article 14. Transportation

1. The Parties recognise the importance of improving transportation services as a means of facilitating trade between the Member States of CARICOM and Venezuela.

2. The Joint Council shall keep the provisions of this Article under review and identify measures including the negotiation of agreements on air and maritime transportation between the Member States of CARICOM and Venezuela, whereby transportation services may be improved.

3. The Parties further undertake to explore the possibility of creating joint enterprises in the area of transport and promote the establishment of centres for the consolidation of freight.

Article 15. Safeguard Clauses

1. Venezuela should apply temporary safeguard measures when:

(a) importation of products originating in any of the Member States of CARICOM in quantities such that they cause serious damage to national production of similar or directly competing goods;

(b) it might be necessary to correct dis-equilibrium in the Balance of Payments or protect the external financial position of Venezuela.

2. With reference to sub-paragraph (a) of paragraph 1, the corrective measures should consist of the total or partial suspension of the obligations contracted with respect to the said products.

3. When Venezuela applies restrictions in accordance with sub-paragraph (b) of paragraph 1, the corrective measures may consist of the reduction of volumes or of the value of the merchandise imported, without exceeding the limits necessary for avoiding a serious reduction of monetary reserves, for halting the reduction or increasing the international monetary reserves, as the case may be.

4. When Venezuela proposes to adopt the above-mentioned measures, it shall provide prior

Notification to:

(a) the Joint Council, so that the Joint Council within a period no longer than 15 calendar days dating from the date of receipt of such notification shall decide whether safeguard action is appropriate in the particular case;

(b) the Parties which may have a substantial interest as exporters of the product in question, by means of the Joint Council, to give them the opportunity for the examination of the measures which are proposed for adoption.

5. The decision taken by the Joint Council shall be on the basis of the evidence provided by the Parties. In the case that the decision is in the affirmative, the Joint Council shall authorise the application of the restrictive measures.

6. The safeguard measures shall be applied only during the period necessary for repairing the grave damage. For that purpose they shall have no more than one years duration.

Article 16. Unfair Trade Practices

In the case that these should arise in the trade between the Parties, situations of dumping as well as distortions arising from the application of subsidies to exports or of domestic subsidies equivalent in nature, the affected Party is empowered to apply the appropriate measures in conformity with its domestic legislation where it exists, which shall in any case be in conformity with the provisions of the GATT.

Article 17. Settlement of Disputes

1. The Joint Council is the body responsible for the resolution of disputes which may arise with regard to the interpretation, application, execution or failure to comply with the provisions of this Agreement.

2. In the implementation of its powers under this Article, the Joint Council shall define guidelines and mechanisms for the settlement of disputes not later than six months after the entry into force of this Agreement.

Such mechanisms may include negotiation, enquiry, mediation, conciliation and arbitration.

Article 18. Evaluation of the Agreement

The Joint Council shall carry out a comprehensive evaluation of the implementation of this Agreement and of the accomplishment of its objective, not later than four years after its entry into force. On the basis of this evaluation, the Joint Council shall recommend measures which it considers necessary to improve trade relations between the Parties on a mutual basis.

Article 19. Accession to the Agreement by other ALADI Member States

1. This Agreement remains open to adherence of the other ALADI Member Countries, subject to prior negotiations among the Parties and those countries which demonstrate their intention to become members, in accordance with the provision in paragraph (a) of Article 9 of the Treaty of Montevideo of 1980.

2. The negotiations shall take into account that this Agreement establishes preferential treatment granted by Venezuela to the Member States of the Caribbean Community by reason of their lesser degree of relative development.

Article 20. Transitional Provisions

Venezuela shall proceed to implement with immediate effect the necessary procedures for formalising the Agreement with ALADI in accordance with the provisions of the Treaty of Montevideo of 1980 and the Resolutions of the Council of Ministers.

Article 21. Status of Annexes

The Annexes to this Agreement shall form an integral part thereof.

Article 22. Termination

1. Either Party to this Agreement may give notice to terminate 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.

2. The rights acquired and the obligations contracted under this Agreement shall cease on the effective date of termination, except with regard to those relating to obligations undertaken with respect to importation of products, which shall continue in force for a further period of one year unless the Parties agree to a longer period.

Article 23. Entry Into Force

This Agreement shall enter into force once the Parties have notified each other through diplomatic channels, indicating that all internal legal procedures have been completed. In any event, such legal procedures shall be completed on or before January 1, 1993.

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

DONE AT Palacio de Miraflores in Caracas, Venezuela in the English and Spanish languages, both texts being equally authentic, the 13 th day of October, 1992.

SIGNED: Patrick Manning

For the Caribbean Community.

SIGNED:

For the Government of the Republic of Venezuela