THE CARICOM SYSTEM

Basic Instruments

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Edited by Duke E. Pollard

The Caribbean Law
PUBLISHING COMPANY LTD

KINGSTON

Commissioned by the UWI-CARICOM Project

Published in Jamaica 2003 by
The Caribbean Law Publishing Company
11 Cunningham Avenue
P.O. Box 686
Kingston 6

Editorial Material
© Office of the Principal
University of the West Indies
Mona, Jamaica

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ISBN 976-8167-30-0

A catalogue record of this book is available from the
National Library of Jamaica

Book design by Allison Brown

Printed and bound in the U.S.A.

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PREFACE

By identifying, locating and presenting in one volume a variety of historical documents inspired by the political directorate of the Caribbean Community from its birth to the present time, *The CARICOM System: Basic Instruments* records the institutional development of one of the most enduring economic integration systems in the international community by having the documents speak for themselves. The utterances gleaned from these instruments are both eloquent and instructive. Apart from the University of the West Indies, the instruments set out in this volume postdate the demise of the West Indian Federation in 1962. In fact, the period following the collapse of the Federation registered significant advances in regional cooperation, both in terms of functional cooperation and economic integration. Indeed, when Dr. Williams finally broke his silence and announced the withdrawal of Trinidad and Tobago from the Federation by sponsoring a resolution in the Peoples National Movement (PNM) to 'reject unequivocally any participation in a federation of the Eastern Caribbean', the door was kept open for 'the future establishment of a Common Economic Community embracing the entire Caribbean Area' as stated by Sir Fred Phillips in *Freedom in the Caribbean* (Ocean Publications Inc.1977). So it was that the Dickenson Bay Agreement was concluded a mere three years later and CARIFTA was established in 1968.

The collapse of the federal experiment in 1962 did not moderate or stymie efforts at regional integration. Indeed, the decade following the events of 1962 saw the establishment of CARIFTA, the Caribbean Development Bank, the West Indies Shipping Corporation, the Caribbean Examinations Council, and the Council of Legal Education. With the exception of the West Indies Shipping Corporation which went into liquidation and CARIFTA, which was succeeded by the Caribbean Community and Common Market, these institutions have survived to the present and have grown in strength and stature. The signing of the Treaty of Chaguaramas in 1973 by Barbados, Guyana, Jamaica and Trinidad and Tobago must be considered one of the defining moments in the historical and institutional development of the Caribbean Community. Given the acrimony characterising the relations between Jamaica and Trinidad and Tobago in the period 1958-68 it was not a plausible expectation that representatives of the two governments could have deliberated and reached an accommodation in 1973. In this connection, Trinidad and Tobago must be seen to have made a herculean effort at accommodation given the known preference of the Williams' administration for a customs union in the Commonwealth Caribbean and for a strong central administration in any integration arrangement. Although a hesitant first step, the Treaty of Chaguaramas provided the basis for wide-ranging functional cooperation, important initiatives in foreign policy coordination and invaluable experience in the operation of a free trade regime, however constrained by impediments to the free movement of goods and factors of production.

From these early beginnings the CARICOM System has grown and flourished comprehending at present a range of regimes in the areas of governance, social security, export development, agricultural research and development, the environment, meteorology, disaster preparedness, administration, culture, fisheries, tourism,

telecommunications, food and nutrition, animal health, climate change, standards and quality and so on. At the centre of the system is the Caribbean Community which is being transformed by the Revised Treaty of Chaguaramas from a trading regime to a single market and economy in which factors move freely as a basis for internationally competitive production of goods and provision of services. This transformation comes largely as a response to galloping liberalisation and globalisation in the world economy but is still in an early state of development. Operationalising the CARICOM Single Market and Economy (CSME) calls for the establishment of various enabling institutions among which is the Caribbean Court of Justice, which is encountering serious opposition from some sections of the regional legal fraternity, particularly the private Bar in Jamaica. Given the critical importance of this institution to the successful operation of the CSME, it is necessary to await developments in this area before venturing an evaluation of the prospects for success of the development paradigm being introduced by the Revised Treaty of Chaguaramas. It may be instructive to note however, that participation in the regime of the Caribbean Court of Justice in its original jurisdiction is a *sine qua non* for participating in the CARICOM Single Market and Economy.

Given the date of conclusion of many of the regimes included in this compendium, it is conceivable that some instruments have undergone minor amendments which might not have been incorporated in the texts presented her. Unfortunately, time constrains militated against their incorporation. Further, one or two regimes are either dysfunctional or in an advanced state of dissolution; nevertheless, their historical significance was perceived as justifying their inclusion. Cases in point are the Caribbean Food Corporation, the West Indies Shipping Corporation and the Caribbean Enterprise Regime.

ACKNOWLEDGEMENTS

Given the extremely restricted time frame for the production of this volume, our thanks have to be recorded for the unqualified cooperation and assistance of many an unseen contributor. Foremost among these is Ms. Myrtle Chuck-A-Sang, a monument of enthusiasm, strength, encouragement and initiative. Her support staff Karen Cumberbatch and Gillian Briston also contributed freely of their time. Mr. Ronald Austin was always available for advice, and Ms. Indra Dianand was unstinting in making available her computer skills. Access to various instruments was facilitated by Ms. Amrita Hall, Ms. Sandra Woolford and Ms. Ranjana Williams of the CARICOM Secretariat. We are truly indebted to these regional civil servants. Our sincere appreciation must also be recorded for the contribution of Ms. Treena Dundas, our research assistant, who unhesitatingly undertook to conduct interviews in various countries of the Community at very short notice. Her report on interviews, submission of relevant documents collected on her visits, and observations on various commentaries undoubtedly enhanced the quality of the product. Without the help of those identified for personal mention and many others, this production would not have been possible.

Part One

Background to the CARICOM System

1

BACKGROUND TO THE CARICOM SYSTEM

BACKGROUND

The 'CARICOM System' is the term used to characterise the inter-governmental organisations established by the political directorate of the Commonwealth Caribbean countries by the Treaty of Chaguaramas 1973, and which maintain functional relationships with the Caribbean Community designed to, or having the effect of, facilitating the achievement of the objectives of the Caribbean Community. Although the economic objectives of the Caribbean Community and Common Market established by the original Treaty of Chaguaramas 1973, and the economic objectives of the Caribbean Community, including the CARICOM Single Market and Economy (CSME) established by the Revised Treaty of Chaguaramas 2001, are different in important details, the broad objectives of both the founding and successor organisation are essentially the same: economic integration, co-ordination of foreign policies and functional co-operation.[1]

The basic constituent instruments set out in this volume correspond to these three policy areas. Although a few of the institutions predate the establishment of the Caribbean Community, for example, the University of the West Indies and the Council of Legal Education, their functions significantly complement the objectives of the Caribbean Community.

A people without a history is incapable of identifying and evaluating their present location in the vicissitudes of global development and vulnerable to mistakes in charting a course for the future. The Caribbean Community is the measured institutional response to historical and political developments as variegated as the under-seascape of the Caribbean region. Much of that history has been recorded and interpreted outside by persons outside of the Region whose evaluation of events has not always converged with informed, dispassionate perceptions of a more indigenous breed of historians.

The collapse of the West Indian Federation in 1962 did not lead to the abortion of regional initiatives in the area of functional co-operation. Functional co-operation among the Commonwealth Caribbean territories not only continued after 1962, but intensified in one or two areas, for example, in education. Thus, there was never any doubt that the University of the West Indies would continue and that its courses would be enlarged to accommodate the demands of an expanding post-secondary school population. Similarly, attempts were made to produce lawyers of Caribbean vintage and to establish an examination system relevant for the Region. These efforts eventuated in the

establishment of the Council of Legal Education and the creation of the Caribbean Examinations Council. Coincident with initiatives in the area of functional co-operation were efforts to salvage the West Indies Shipping Corporation and to see how the fragile economies of Barbados and the OECS could survive in the post-1962 era. The independence of Jamaica and Trinidad and Tobago in 1962 not only underscored the vulnerability of the dependent Commonwealth Caribbean territories but also galvanised efforts by the United Kingdom and Canada to establish a financial institution to mobilise external capital for this group of political entities. These efforts bore fruit towards the end of the decade. The only discordant note around this time emanated from British Guiana which distanced itself, ideologically, from the Commonwealth Caribbean and tried to emphasise its 'differentness' by setting up the University of Guyana.

Not unlike similar inter-governmental organisations in other parts of the globe, the organisations and institutions comprising the CARICOM System either constituted the measured response to regional or international developments or were established to anticipate and influence such developments. However, irrespective of the original motivation for the establishment of the organisations and institutions of the CARICOM System, it is possible to discern in their structure and activities a measure of functional coherence geared towards the consolidation and exploitation of synergies for the achievement of collective goals. The University of the West Indies and the CARICOM Secretariat recently concluded a co-operation agreement in order to pool resources for the pursuit and achievement of regional goals.

Some of the CARICOM institutions have stood the test of times, surpassing the most vaunting predictions of their ardent proponents. Others have under-performed and become defunct. On balance, however, the successes seemed to have exceeded the failures.[2]

Central to the family of organisations and institutions of the CARICOM System is the Caribbean Community including the CARICOM Single Market and Economy (CSME) established by the Revised Treaty of Chaguaramas, 2001. At present, the Caribbean Community is in an advanced stage of transition. Of the nine Protocols which have been elaborated, only four have been signed and provisionally applied.[3]

The Revised Treaty of Chaguaramas, which integrates and consolidates the nine Protocols, has been signed by eight Heads of Government and has not been provisionally applied. However, it is envisaged that this instrument will be signed and provisionally applied as suggested by the Prime Ministerial Sub-Committee on the CSME which is under the chairmanship of the Prime Minister of Barbados. The CARICOM Secretariat has prepared a Protocol on Provisional Application of the Revised Treaty as well as a Protocol on the Revised Treaty of Chaguaramas providing for the succession of the Caribbean Community and Common Market by the Caribbean Community including the CARICOM Single Market and Economy.

In order to examine the CARICOM System in proper perspective, it is proposed to describe briefly the main features of the original Caribbean Community and its successor organisation together with some of the major regional and international developments which impacted negatively or positively on their institutional configuration transforming the one from an essentially protectionist inward-looking organisation to an open, liberalised institution motivated by internationally competitive production of goods and services. This will be followed by a brief description of the background to some other high profile institutions and organisations of the CARICOM System as a general

introduction to the brief legal analyses of the constituent instruments which are the principal concern of this initiative.

FROM CARIFTA TO GRAND ANSE

The Treaty of Chaguaramas,1973, has its genesis in an uncanny convergence of ideas and circumstances which challenged the intellect and political ingenuity of regional founding fathers in the post-1962 period following the disintegration of the West Indian Federation. The collapse of the allegedly neo-colonialist experiment in political integration and the inevitable entry of Britain into the European Common Market were among the most distressing events which ossified the deliberative faculties of competent decision-makers in the Commonwealth Caribbean for much longer than regional historians might care to record. But, paradoxically, from the ashes of political disintegration and diminishing prospects for an enduring protectionism within the regime of Commonwealth preferences was to re-emerge the idea of regionalism, persisting with dogged determination as evidenced in the hesitant, tentative free trade experiment by Antigua and Barbuda, Barbados and Guyana in 1965,[4] which was amended in 1968 to include other Commonwealth Caribbean States, to the more forward-looking institutional arrangements of the Caribbean Community and Common Market in 1973. A defining circumstance which appears to have escaped the attention of commentators in explaining the transition from internally motivated institutional collapse to resurgent economic integration is political opportunism. The deliberations and critical determinations in the post-1962 period were made without the direct involvement of national electorates. The Jamaican experience of putting such weighty matters to the electorate appeared to have been a salutary reminder of the political vagaries of uninformed national decision-making.

It is a matter of historical record that commentators, past and present, on the political condition of the Commonwealth Caribbean Region, have discerned, with predictable poignancy, the causes for the demise of the federal experiment in 1962. Even though conventional wisdom tended to segregate the perceived contributory factors along geographical, economic, cultural and political lines,[5] there is persuasive evidence to support the inference that, notwithstanding the vigour and persistence of the idea of regionalism, one of the most critical determinants of regional historical developments during the period 1962-1973 was political opportunism. Political opportunism was instrumental in informing the evolution of events which eventually led to the withdrawal of Jamaica from the federal experiment.

Political opportunism, posturing as ideological conviction, was also a defining factor in explaining Guyana's self-exclusion from the federal experiment. Political opportunism, albeit of different ideological vintage, was determinative in catapulting Guyana to the forefront of the CARIFTA movement and in explaining the divergent dispositions of Barbados, Jamaica, the OECS and Trinidad and Tobago to the Caribbean Community and Common Market. Indeed, authoritative accounts of anti-colonialist developments in London in the 1950s would confirm that the founding fathers of the Caribbean Community and Common Market were, for the most part, British educated

'radicals' whose private agendas advised making much political mileage from the imminent implosion of the Empire in the post-war period.[6]

Although it would be simplistic to deny the viability and potency of the idea of regionalism which survived the political vicissitudes of institutional rebirth stretching from 1962 to 1973, it must be recognised that in the absence of a pro-active corporeal medium to give concrete expression to ideas in the form of appropriate political and institutional arrangements, ideas tend to aspire to no more than a stimulant to, or outcome of, intellectual endeavour and, more often than not, constitute an inert agent of economic, social or political transformation. Thus, whereas Proudhon, the French philosopher, was a relatively little known incubator for the ideas of Marx and the latter a generally acknowledged inspiration for the ideas of Engels, there had to be a Leninist/ Stalinist pro-activism to transform communism as an idea into a social and political, albeit brutal, *tour de force*. While conceding, therefore, the enduring viability of the idea of regionalism during the post-1962 era, it must be conceded that actors like Vere Bird, Forbes Burnham, Errol Barrow, Eric Williams and Michael Manley were indispensable for its actualisation.

Yet, in all this, the functional limitations of regionalism as a catalytic and productive idea must be realised; for if on the one hand the idea of regionalism was persuasive enough to prompt positive action towards the establishment of the Caribbean Community and Common Market, on the other hand it was appallingly deficient as a stimulant in terms of creating, other than in mere form, a genuine community of interests in which regional objectives were afforded pride of place in national determinations and the common man could benefit from the collective experience of shared values and perspectives of identification.

The Caribbean Community and Common Market was more a limited trading regime than a genuine customs union or common market, and nothing approaching a credible community in economic and political disposition of competences. A cursory examination of some of the main provisions of the Treaty of Chaguaramas would bear this out.

As a point of departure for an analysis of the economic integration process, the nomenclature of the integration initiative of 1973 as 'the Caribbean Community and Common Market' bears examination. This designation was not the product of political insouciance. Rather, it was a deliberate act evidencing the measured institutional response of critical decision-makers who failed to forge a far-reaching consensus on the organisational and institutional arrangements for the integration effort at the material time, but declined to acknowledge the effeteness of their collective endeavour.

In one submission

> .... it would be disingenuous to assume that the factors generally regarded as contributing to the collapse of the West Indian Federation disappeared with that experiment into the limbo of history over the intervening decade (1962-73). Undoubtedly much has changed and hopefully, much will continue to change in the direction of constructive development. But many of those disabling factors, psychological as well as material, are still with us and operated as effective constraints on the type and quality of the instrumentalities that could have been devised to give expression to the current thrust towards economic integration that is evidenced within the Region. Such an admission should not, however, be construed as an apocalyptic pronouncement regarding the future prospects of present integration efforts. Rather, it is intended as a caveat for those who, out of

> an axiomatic commitment to far-reaching economic integration within the Region as a means of confronting the challenge posed by the pace of international developments, may be tempted to overlook the fact that the Treaty Establishing the Caribbean Community is in many ways a compromise which realistically expresses the extreme limits of political accommodation feasible in the Commonwealth Caribbean at the present time.[7]

In the first place, Jamaica, and in particular, the bureaucrats who represented it in relevant regional negotiations, was too proximate in time to the political events of 1962 to accommodate in its negotiating brief any institutional arrangement which smacked of a dissembling experiment in political integration. Consequently, Jamaican negotiators, emboldened by support from an influential, aggressive and relatively pro-active private sector, focused on the establishment of an enlarged export market in the Caribbean, namely, the Common Market dimension of the regional negotiating process, leaving Trinidad and Tobago, Guyana and Barbados to make the running on the Community dimension, which cautiously entertained somewhat tentative and discreet elements of political orientation.[8] In the result, two separate regimes, set out in two discrete legal instruments - the Caribbean Community and the Common Market Annex, were elaborated. The latter appeared to be a modified version of the Dickenson Bay Agreement of 1965 establishing the Caribbean Free Trade Association.

Up to the very last critical moment of the negotiations, the confident expectation of the more progressive integrationists was that Jamaica would opt to participate in the Common Market alone, leaving the others to sign on to both the Caribbean Community and the Common Market. However, the terms of the 1973 Treaty permitted membership of the Caribbean Community alone, but made participation in the Common Market contingent on membership of the Caribbean Community. This arrangement allowed The Bahamas later on to participate in the Caribbean Community and to opt out of the Common Market, but constrained Jamaica to participate in both.[9] In this connection, it was observed:

> In the earliest working draft of the Community Treaty, the institutions of the Caribbean Community and Common Market were integrated into a single instrument. Indeed, the political realities existing in some quarters of the Region at that time were expressed to require an integrated instrument. It was argued with considerable force, however, that since the political realities in the various territories comprising the Commonwealth Caribbean were unassimilable, an instrument that was intended to be politically acceptable to all concerned would have to reflect the lowest common denominator obtaining in the Region. The result was a juridical hybrid consisting of a principal instrument and an annex embracing an institutional arrangement which recognised the separate legal personalities of the Caribbean Community and Common Market but one which equally expressed the legal interdependence of these separate entities. Thus the Conference, by virtue of the provisions of Article 8(3) of the Community Treaty, establishes the umbilical link between the Caribbean Community and Common Market. This link is reinforced by the proviso of Article 5(1) of the Annex to the Community Treaty, and by the provisions of Article 7 of the Agreement Establishing the Common External Tariff. This functional link between the institutions of the Caribbean Community and Common Market is further strengthened by the provisions of Article 69(3) of the Annex. To a considerable extent this system of linkages is intended to ensure that no country would enjoy the advantages of membership in the Common Market

> without identifying with the Community. On the other hand, membership in the Community is not similarly predicated on the requirement of membership in the Common Market.[10]

So it was that the Treaty of Chaguaramas established two regimes with separate legal personalities, co-existing in one physical location in Georgetown, Guyana. The choice of venue for the capital was designed to encourage movement to the South and to facilitate exploitation of the abundant natural resources of this Member State.

In terms of the institutional arrangements attending the efforts of 1973, it is pertinent to note that the term 'Caribbean Community' was largely symbolic and, from the perspective of normative institutional arrangements, appeared to have been juridically misconceived. Nothing in the arrangements of 1973 smacked of supranationality within the meaning of the experience of other regional organizations such as the European Community. Despite its misleading nomenclature, therefore, the Caribbean Community was in every sense an association of sovereign States. In fact, the juridical expression of sovereign equality, unanimity in decision-making,[11] characterised the voting procedures of both principal organs and institutions, except in some trade-related determinations of the Common Market Council.[12]

Addressing the status of the Caribbean Community, one analyst observed:

> The Community is not a supranational organisation. Its decisions do not create legal effects directly on persons, natural or legal, belonging to Member States. In effect the autonomy of national decision-making is safeguarded in several ways. Firstly, every member of the Conference has a veto and is not obligated to submit to the majority will either in the case of binding decisions or exhortatory recommendations. Secondly, even where a member of the Community voluntarily endorses a decision of the Conference, such a decision would be subject to implementing municipal legislation before it could have legal effects for nationals; and, even though failure to implement such a decision would constitute a breach of an international obligation, it would have no municipal legal significance. In situations involving amendments to the Treaty, each Member State has a veto over any such amendment. Since amendments are subject to prior approval by the Conference or the Common Market Council which proceeds by unanimous vote. Additionally, all such amendments are subject to ratification by all members before entry into force. Exceptionally, the Council may amend the Treaty by qualified majority vote - Articles 32(1) and 14(4) of the Annex. Finally, any member of the Community may, as a last resort, exercise the right of withdrawal recognised in the Treaty subject to certain conditions. At this point it may be convenient to note that the structure of the Conference as well as the distribution of power therein are consonant with specific guidelines for the elaboration of the Treaty established by the Attorneys-General of the Commonwealth Caribbean. These guidelines envisage a Caribbean Community established along lines not suggestive of a political association nor involving any derogation from national sovereignty.[13]

Coming as it did after the establishment of the European Common Market in 1957, it is generally, though mistakenly, assumed that the Treaty Establishing the Caribbean Community and Common Market was largely inspired by the European economic integration experience. However, an examination of the European Free Trade Association's (EFTA) constituent instrument confirms the extent to which this instrument influenced the structure and orientation of the CARIFTA Agreement, and later, the Common Market Annex to the Caribbean Community Treaty. Many of the provisions

of the EFTA agreement are replicated in the Dickenson Bay Agreement 1965 and reproduced in the Common Market Annex to the Treaty Establishing the Caribbean Community. In attempting to adjust the provisions of the EFTA instrument to the perceived needs of the Commonwealth Caribbean, modifications were made to the texts which, in retrospect, reflected a flawed perception of the intention of the European decision-makers. Some of these modifications have generated considerable difficulties in construing the language of commitment employed in the original Treaty of Chaguaramas. Examination of the texts of two extremely important provisions bearing on area origin status will bear this out.

Article 14(1) of the Treaty which speaks to the rules of origin, a feature critical for any viable economic integration movement, reads as follows:

Article 14
Common Market Origin

1. Subject to the provisions of this Article, in this Annex goods that are consigned from the territory of a Member State to a consignee in the territory of another Member State and that comply with either of the following conditions shall be treated as being of Common Market origin, that is to say, the goods must -

(a) have been wholly produced within the Common Market; or

(b) have been produced within the Common Market wholly or partly from materials imported from outside the Common Market or of undetermined origin by a process which effects a substantial transformation characterised -

(i) by the goods being classified in a tariff heading different from that in which any of these materials is classified; or

(ii) in the case of the goods listed in Part A of the List in Schedule II (hereinafter reffed to as "the List"), only by satisfying the conditions therefor specified in that Part; or

(iii) in the case of goods listed in Part C of the List, by satisfying the conditions therefor specified in that Part.

2. ... ...

3. ... ...

4. ... ...

5. ... ...

6. Where there is an interruption or inadequacy of supplies of regional materials and the manufacturer of goods, for which the qualifying condition for Common Market origin is that of "wholly produced" or "produced from regional materials" is unable by reason of circumstances beyond his control to obtain supplies of the regional materials, he shall so inform the Competent Authority.

7. The Competent Authority shall issue to the manufacturer such directions as to quantities of extraregional materials and the period during which importation may be effected and the manufacturer may thereupon import extraregional materials in accordance with such directions.

8. ... ...

9. ... ...

10. Nothing in this annex shall prevent a Member State from treating as of Common Market origin any imports consigned from another Member State, provided that the like imports consigned from any Member State are accorded the same treatment.

11. ... ...

On the other hand, the corresponding Article 4 of the EFTA agreement reads as follows:

Article 4
Area Tariff Treatment

1. For the purposes of Articles 3 to 7, goods shall, subject to Annex B, be accepted as eligible for *Area tariff treatment* if they have been consigned *to the territory* of the importing Member State *from the territory* of another Member State and if they are of Area origin under any one of the following conditions:

(a) that they have been wholly produced within the Area of the Association;

(b) that they fall within a description of goods listed in the Process Lists which form Schedules I and II to Annex B and have been produced within the Area of the Association by the appropriate qualifying process described in those Lists;

(c) that, in the case of goods other than those listed in Schedule II to Annex B, they have produced within the Area of the Association, and that the value of any materials imported from outside the Area or of undetermined origin which have been used at any stage of the production of the goods does not exceed 50 per cent of the export price of the goods.

2. For the purposes of sub-paragraphs (a), (b) and (c) of paragraph 1 of this Article, materials listed in the Basic Materials List which forms Schedule III to Annex B which have been used in the state described in that List in a Process of production within the Area of the Association shall be deemed to contain no element imported from outside the Area.

3. Nothing in this Convention shall prevent a Member State from accepting as eligible for Area tariff treatment any goods imported from the territory of another Member State, provided that the like goods imported from the territory of any Member State are accorded the same treatment.

4. Provisions necessary for the Administration and effective application of this Article are contained in Annex B.

5. The Council may decide to amend the provisions of this Article and of Annex B.

Careful perusal of the text of the EFTA instrument does appear to confirm that competent decision-makers were careful to confine qualifying criteria of area origin status to products and processes as distinct from geographical location of parties to a consignment arrangement. Geography was taken into account only for the purpose of establishing entitlement to Area tariff treatment. Similarly, the language of commitment of Article 5 of the CARIFTA Agreement replicates that of Article 4 of the EFTA Agreement. However, either by design or inadvertence, the relevant provisions of the Treaty of Chaguaramas posit geographical location of parties to a consignment arrangement as an indispensable element of origin status. One plausible explanation

of this is a lack of awareness of the rationale informing the EFTA formulation. In one submission, the basic thrust of the origin criteria employed by the EFTA policy-makers was economic liberalism designed to expand as far as practicable the range of products qualifying for area origin status and treatment.[14] In the premises, a requirement of geographical location restricted to the territories of parties to the regime would have circumscribed the range of products qualifying for area origin or preferential treatment. It is not known whether competent decision-makers of the Caribbean at the material time were aware of these considerations. Be this as it may, the origin criteria of the original Treaty are replicated in Protocol IV and in Chapter V of the Revised Treaty of Chaguaramas Establishing the Caribbean Community including the CARICOM Single Market and Economy.

In like manner, the Articles of EFTA and the original Treaty of Chaguaramas addressing the issue of export drawback reveal some interesting divergences which have generated much controversy in the Caribbean Community regarding the rights and obligations of Member States. Article 7 of the EFTA instrument which inspired Article 16 of the Treaty reads as follows:

Article 7
Drawback

1. Subject to the provisions of this Article and of Annex B, each Member State may, on and after 31st December, 1966, refuse to accept as eligible for Area tariff treatment goods in relation to which drawback is claimed or made use of in connection with their exportation from the Member State in the territory of which the goods have undergone the last process of production.

2. Provisions necessary for the administration and effective application of this Article are contained in Annex B.

3. The Council may decide to amend the provisions of this Article or of Annex B, and may decide that further or different provisions relating to drawback shall be applied either generally or to certain goods or in certain circumstances.

4. In applying this Article each Member State shall accord the same treatment to imports from the territories of all Member States.

5. For the purpose of this Article and of Annex B:

   (a) "Drawback" means any arrangement, *including temporary duty-free admission*, for the refund or remission of all or part of the duties applicable to imported materials, provided that the arrangement, expressly or in effect, allows such refund or remission if goods are exported but not if they are retained for home use;

   (b) "remission" includes exemption *from duties* for materials brought into free ports, *free zones* or other places which have similar customs privileges; and

   (c) "duties" means customs duties and any other charges with equivalent effect imposed on imported materials, except the non-protective element in such duties or charges.

The corresponding provisions of Article 23 of Protocol IV and Article 89 of the Revised Treaty of Chaguaramas both of which replicate Article 16 of the original Treaty, read as follows:

Article 89
Export Drawback

1. A Member State may refuse to treat as of Community origin goods which benefit from export drawback allowed by other Member States. In applying this paragraph, a Member State shall accord the same treatment to such goods consigned from all other Member States.

2. Whenever a Member State intends to apply an export drawback within the meaning of paragraph 6, it shall notify COTED.

3. The Member State shall, at the time of notification, set out the circumstances which justify the need to apply an export drawback, the products which will benefit therefrom, the nature and proposed duration of the measures, and such other information as COTED may prescribe from time to time.

4. COTED shall give its earliest consideration to the notification referred to in paragraph 3 and make a determination of the appropriateness of the measures and, if it is not satisfied, may recommend that the Member State which intends to apply an export drawback, modify the programme.

5. COTED shall review annually all export drawback programmes maintained by Member States.

6. For the purposes of this Article -

(a) 'export drawback' means any arrangement for the refund or remission, wholly or in part, of import duties applicable to imported materials: provided that the arrangement, expressly or in effect, allows refund or remission if certain goods or materials are exported, but not if they are retained for home use;

(b) 'remission' includes exemption for materials brought into free ports and other places which have similar customs privileges;

(c) 'duties' means:

(i) all charges on or in connection with importation, except fiscal charges to which Article 80 applies; and

(ii) any protective element in such fiscal charges;

(d) 'materials' shall have the meaning assigned to it in Rule I of Schedule I to this Treaty.

It will be noted that the text of the EFTA instrument (Article 7) makes express reference to the words 'free zones' while the text of the CARICOM instruments mentioned above studiously or, perhaps, inadvertently, avoids mention thereof. Consequent on the omission of the term 'free zones' from the language of commitment of the CARICOM instruments, considerable controversy has been generated regarding the status of goods produced or exported from free zones or similar jurisdictions. Most Member States agree that such goods must be excluded from area origin treatment. However, a small articulate minority of Member States asseverate that such goods must be accorded area origin treatment provided that the qualifying criteria are satisfied. Proponents of exclusion maintain that the geographical criterion is an essential criterion of area origin status and that 'territory' as implied in the relevant Articles speaks by compelling inference to 'customs territory' as confirmed in the practice of Member

States. Proponents of inclusion affirm that free zones are 'territory' within the meaning of the relevant provisions and, consequently, goods produced or exported from free zones are entitled to be accorded area treatment provided the other qualifying criteria are satisfied.

The proponents of exclusion appear to have the law on their side to the extent that a practice of Member States may be relied on to establish the understanding of the parties regarding the status of goods produced or exported from free zones. Consider in this context, the provisions of Article 31(3)(b) of the Vienna Convention of the Law of Treaties. However, there can be no objection in principle to according goods produced in or exported from free zones or similar jurisdictions, area tariff treatment provided that agreed stringent conditions are respected. Such conditions must speak to the integrity of the production process designed to ensure good faith compliance with applicable standards. In this context, Member States desirous of producing or exporting from free zones goods claiming area origin status, must be required to have in place appropriate and credible monitoring mechanisms to safeguard the integrity of the production process. There can be no doubt that the salient issue to be determined in this context is the capability and willingness of aspiring Member States to establish the desired monitoring mechanisms of the required credibility. In the absence of such mechanisms, good sense would appear to advise against encouraging the production or export of goods from free zones designed to claim area origin status.

Perusal of the provisions of the Treaty of Chaguaramas 1973, especially those addressing establishment, services and capital, should readily confirm what appears to be undue emphasis by the negotiators on form and imagery and vigilant pre-occupation with the avoidance of meaningful commitments[15]. Thus, Article 35(1) of the Common Market Annex to the Treaty of Chaguaramas does not proscribe outright the imposition of restrictions on the establishment or operation of economic enterprises; it merely recognises that such restrictions 'should not be applied' by withholding national treatment in respect of other CARICOM nationals 'in such a way as to frustrate the benefits expected from such removal or absence of duties and quantitative restrictions as is required by this Annex.' The prohibition of new restrictions on establishment and operation of economic enterprises contained in Article 35(2), is clear enough. With characteristic diffidence, however, the Common Market Council was required to consider from time to time 'whether further or different provisions (were) necessary to give effect to the principles set out in paragraph 1' of Article 35. In this context, it is important to note the language of commitment. No *'right of establishment'* was recognised or accorded; not even a privilege was conceded. Member States were merely being implored to accord national treatment in respect of 'the establishment and operation of economic enterprises' as far as practicable. However, in mitigation of the stricture on the commitment agreed, it must be observed that, unlike the title of the succeeding Article, no attempt was made to disguise the essential thrust of the provision. Consequently, although the title of Article 36 is 'Right to provide Services', a careful examination of its provisions will determine that the 'right' to provide services was little more than preferential treatment in relation to third States 'as far as practicable' whatever the words in parenthesis were intended to mean. Postulated in other terms, the language of commitment of paragraph 1 of Article 36 does not establish entitlement to trade in services except where the privilege is expressly accorded by the conferring Member State to the conferee of another Member State.

Concerning the movement of capital, the provisions of Article 37 stop far short of recognising the right to move capital in establishing or operating economic enterprises and does no more than empower the Common Market Council to 'examine ways and means for the introduction of a scheme for the regulation of capital.' However, in the reasoned submission of one outstanding regional economist, the 'regulated movement of capital' must be perceived as constituting 'the functional equivalent of the free movement of labour'.who? However, this rationale for the ineffectiveness of the only compromise feasible at the material time is misleading. In order for these 'rights' allegedly conferred in the relevant provisions not to be illusory, beneficiaries must have the means of effectively enforcing them in a recognised court of law either by themselves or their States of nationality. In this regard, the Revised Treaty of Chaguaramas is an outstanding improvement on the original Treaty.

The proposed Caribbean Court of Justice identified as the institution to be employed for one of several modes of disputes settlement is expected to ensure respect for, and enforceability of, rights recognised in the new dispensation. The compulsory and exclusive jurisdiction conferred on the Caribbean Court of Justice (CCJ)[16] 14 is designed to ensure uniformity in the applicable norms and predictability in the prevailing economic environment. When implemented into national law, as it must, to have effect at the municipal level, the Revised Treaty of Chaguaramas would ordinarily be subject to interpretation by local courts. This, in effect, could lead to several conflicting interpretations of the Treaty thereby occasioning unacceptable uncertainty in applicable norms. To avoid juridical cacophony in the applicable regime, therefore, the relevant provisions of the Revised Treaty and the Agreement Establishing the CCJ establish a peremptory system of referrals from national courts whenever issues requiring interpretation and application of the Treaty arise[17]. A similar system of referrals obtains in the Treaty of Rome as amended by Maastricht, and has been credited with achieving social and economic cohesion in the integration movement as a whole[18].

The stability of expectations on the part of an investor is a powerful stimulus for the commitment of financial investments. Such stability of expectations is normally a function of predictability in the enabling macro-economic environment, and this, in turn, is a function of legal certainty. By exercising compulsory and exclusive jurisdiction in respect of the interpretation and application of the Revised Treaty, coupled with the requirement to employ generally accepted rules of international law[19], except where the litigants agree to have the issue determined *ex aequo et bono*, the Court would be in a position to ensure uniformity in the applicable norms. Further, the requirement to observe the principle of *stare decisis*, a feature of the common law innovatively imported into traditional international law by competent decision-makers, is likely to reinforce the incidence of legal certainty in the economic integration regime with probable positive outcomes for the regional investment climate[20].

Contrary to the analyses of political guru in the Region at the material time, the federal experiment failed, not so much because it was a neo-colonialist superimposition by Whitehall, but because critical decision-makers were cognisant of the fact that, in the ultimate analysis, the constituent political entities were entitled to exercise the option of self-determination consonant with applicable international norms and practice. Indeed, General Assembly Resolution 1514 on the granting of self-determination to dependent peoples, appeared to have been but one element of a grand design by transnational corporate enterprises to dismember colonial empires, terminate exclusionary trade

preferences among their political constituents and open up the continents of Africa and Asia to transnational corporate penetration of hegemonic economies. For, given the unrealistic prospects of weak political entities effectively subsisting as viable economic nation States in the post-independent period, conferment on them of legal sovereignty must be perceived to constitute a calculated self-serving stratagem for enforced disability as autonomous political entities and resulting exposure to economic penetration[21].

The determination of the West Indian Commission that implementation was the Achilles heel of the regional integration movement did not constitute the ineluctable conclusion of innovative thinking. In one submission, this finding 'was by no means an original conclusion since all previous studies of the operations of CARICOM had arrived at similar conclusions'[22] . Indeed, the Group of Experts established by the Caribbean Common Market Council of Ministers under the chairmanship of William Demas had long since concluded that 'the failure of CARICOM to have a bigger development impact on the Region is more attributable to weaknesses at the national level than to deficiencies in the economic integration instruments'[23]. This conclusion of the Group of Experts spoke to the issue of implementation in a comprehensive context. However, instead of conclusively deciding that the remedial approach was an imaginative pooling of sovereignties to achieve collective goals, the Group of Experts self-effacingly recommended that 'Member States *consider* the introduction of an "umbrella" CARICOM Act under which specific regulations may be made or negative resolutions introduced in Parliament by the Minister responsible in order to facilitate and expedite the process of giving effect in the various Member States to a number of different CARICOM decisions'.[24] In effect, the Group of Experts appeared to have reached the wrong conclusion for the right reasons. Similarly, the West Indian Commission, in its celebrated Report, *Time for Action,* tip-toed gingerly and with circumspection around the issue of supranationality, widely known to be anathema to some regional decision-makers, and recommended the establishment of a CARICOM Commission possessing no supranational competence, but which would be competent to issue instruments of implementation in the form of draft legislation in order to facilitate and expedite the implementation process[25].

Both expert groups appeared to have made the egregious assumption that all that was required to implement regional determinations at the national level was a process to facilitate and expedite the enactment of relevant legislation. The experience of the Region confirms the fallacy of this assumption as evidenced by statute books replete with enactments that remain unimplemented[26]. Not only must the State have the relevant expertise to enact legislation, but it must also have a range of other capabilities to render effective the laws placed on the statute books. Such capabilities include, at the public level, financial and human resources to have in place a justice sector that can deliver the required services with efficiency and dispatch, a well-organised and efficiently functioning Magistrates' and Superior Courts system, adequate numbers of prosecutors and public defenders, well-staffed attorneys-general and solicitors-general chambers, and a well-staffed and efficiently organised and effectively functioning public service. Deployment of these capabilities will be required to implement various regional determinations addressing issues of domestic policies in the areas of health, education, housing, social security, environment, investment, economic development and transport - to name a few. At the level of civil society, various other capabilities are required to support implementation of decisions.

Very often implementation of regional decisions require enlisting the support of various institutions of civil society and the establishment of new institutional structures. These include a well-organised private sector representing banking, financial and other services supportive of production, distribution and export-oriented competition, investment, research and development, reception and adaptation of relevant technology and the traditional management capabilities normally associated with modern entrepreneurship. The required legal infrastructure to lend predictability to economic decisions and stability to the operational macro-economic environment is also necessary for the effective implementation of regional decisions. Sometimes, effective implementation of regional decisions requires educating the public to effectuate a change of national perspectives or in the way of doing things. All of this may require human and material resources well beyond the capabilities of Member States, given the exponential claims on exiguous national resources. Sometimes, implementation of decisions requires increased allocation of resources at the regional plane in order to augment those of the Secretariat - a determination invariably inviting vigorous resistance by contributing Member States. In effect, implementation of decisions is a protracted, complex process which does not ordinarily terminate with the enactment of implementing legislation.

In the area of foreign policy co-ordination, relevant national capabilities would normally include a physical presence, either jointly or separately in various metropolises to address issues relating to trade, foreign investment, assistance to nationals and political international developments impacting on national security and economic survival. The financial and human resources needed to provide such required capabilities on a sustainable basis, however, are conspicuously lacking in most CARICOM Member States. This condition has been exacerbated by the requirement to comply with numerous WTO obligations and to participate, simultaneously, in negotiations relating to EU/ ACP and FTAA trading regimes to be established. Recently, the events of September 11, 2002 in the United States of America and the consequent passage of Security Council Resolution 1373, have operated to burden weak sovereignties with many more obligations in terms of implementing a variety of anti-terrorist conventions.

Granting the validity of the foregoing observations, several questions fall to be answered. Are Member States in a better position now to implement decisions reached at the regional level than in 1981 or 1992? Have the national capabilities of Member States been so enhanced in the intervening decades to render them capable of implementing regional decisions on a sustainable basis? Equally important is the question whether Member States have so altered their evaluation of political events so as to accord to regional determinations the priority status they deserve in the national political agenda. Unless the responses to these questions are in the affirmative, there can be no plausible expectation that regional determinations are capable of implementation at the national plane and would in fact be implemented. The CSME has significantly enhanced the rights accorded to Community nationals and Member States; and internationally, foreign trade and foreign policy issues have increased in scope and in complexity due to the establishment of the World Trade Organisation and the emergence of several trade blocs within the western hemisphere. Both of these developments appear to require significant augmentation of national capabilities.

The demand on independent political entities, irrespective of geographical size or economic strength, for foreign representation has grown exponentially and is unlikely

to decrease. Where are the enhanced capabilities required for States to function effectively and efficiently at the international plane to be sourced? In other terms, if problems of implementation confronting CARICOM States appeared to be insoluble three decades ago when demands on national resource capabilities were considerably fewer, what plausible assurances are to be entertained for their effective implementation today? Are competent decision-makers more willing now than three decades earlier to make the tough political choices required for survival in a more hostile and uncompromisingly competitive international environment? The measure of success likely to attend current initiatives at economic integration in the Region will be determined by the responses to the questions posed.

The responses however, are characterised by cognitive dissonance - the desire, on the one hand, to enjoy the status of sovereign States and, on the other, an unwillingness to acknowledge the inadequacy of required capabilities to translate legal sovereignty into a political and economic reality. The Europeans tried to resolve the dilemma by the only way feasible, an enforced pooling of sovereignties. The events charaterising the Second World War forced Europe to move inexorably towards pooling national sovereignties and the emergence of supranational institutions in the integration architecture embodied in the Treaty of Rome 1957 as embellished and deepened at Maastricht in 1992. There has been no 'event' of similar dimensions propelling the Member States of CARICOM.

The axiomatic conclusion of course, is that for as long as CARICOM insists on remaining an association of weak sovereignties, for so long will implementation remain a *bête noir* and the integration effort continue to be sullied by unavoidable reverses. The West Indian Commission (WIC), determined that the time for action had arrived. Unfortunately, however, the Commissioners did not think that the time for indulging a measure of political candour had arrived as well and so the CSME is likely to suffer a fate similar to previous efforts at economic integration unless this current initiative is accompanied by the required degree of introspection and candour, and policy-makers are prepared to embrace supranationality. This, in effect, is the conclusion of the latest Group of Experts appointed by the Secretariat to look at the Community[27]. Employing as their point of departure the decision of the Conference of Heads of Government to confer executive authority on the Secretary-General, the Consultants proposed the establishment of a Secretariat Executive Council comprising the existing Management Committee, with limited supranational competence, to:

- see to the abolition and prohibition of internal tariff barriers; state subsidies; special charges and restrictive practices;
- harmonise external commercial policy (e.g., settling minimum and maximum customs duties on imports from third countries);
- until the establishment of the CCJ, propose the imposition of fines on those who disregard Community decisions.

However, the fate of this most recent proposal still remains unknown. In any event, this recommendation does not address frontally the issue of national capabilities as it impacts on implementation.

The provisions of Article 38 of the original Treaty of Chaguaramas which address the movement of persons throws into sharp relief one of the intractable problems underlying the collapse of the federal experiment, the free movement of labour.

Significantly, the Article is entitled 'Saving', and relieves Member States of the obligation to grant freedom of movement to persons into their territories whether or not such persons are nationals of other Member States. The burden of free movement remains one of the largely unresolved issues of the current initiatives to accelerate the pace of integration in the Caribbean Community. Later, it will be seen how competent decision-makers have attempted to deal incrementally and realistically with the issue of movement of persons in the Caribbean Community.

As already mentioned, the primary concerns of decision-makers at the material time were the preservation of the idea of regionalism and the establishment of institutional arrangements for the free trade in goods[28]. Unfortunately, however, the conclusion of the Treaty of Chaguaramas 1973, was almost coincident with the oil crisis occasioned by the quadrupling of oil prices which threw into a tail spin the economies of most non-oil-producing countries, particularly the non-oil-producing developing countries, into which category most Member States of the Caribbean Community fall. In order to reduce budgetary deficits and cut back on foreign exchange outflows, Jamaica and Guyana both invoked Article 28 provisions of the Treaty to impose quantitative restrictions on domestic imports of CARICOM products, including those qualifying for area origin treatment. Many other CARICOM countries also unilaterally imposed various restrictions on CARICOM imports without expressly grounding their actions on Treaty provisions. In the result, intra-CARICOM trade contracted considerably, and predictions about the collapse of the economic integration effort abounded. However, international developments such as the decision of the EEC to transform itself, the imminent disintegration of the USSR and the general movement towards the establishment of mega trading blocs accompanied by the expected demise of preferential economic regimes, served to convince even the most undiscerning of critical decision-makers in the Region that the time for action had arrived.

The Declaration of Grand Anse, 1989, which was designed to chart the way forward heralded two significant developments, the establishment of the CARICOM Single Market and Economy and the appointment of the West Indian Commission with a far-ranging mandate. As national economies began to adjust to the realities occasioned by the oil price rise, either by downward adjustment of national aspirations or by manipulating the international monetary and financial systems, tempers began to cool in the Caribbean Community and other concerns thrust themselves to the forefront of the international political agenda. Among these concerns was the unheralded demise of the new international economic order (NIEO) and the collapse of the Soviet empire which introduced an awesome dimension into the hemispheric security equation. With the collapse of Soviet world power and the denouement of the cold war, Members of the Caribbean Community, whose *savoir faire* in relevant international fora enabled them to manipulate anti-communist phobia for their national advantage, suddenly found themselves at the receiving end of the stick. Deprived of their geo-strategic importance in the battle for the minds of the uncommitted, or non-aligned as they chose to call themselves, economies of the Region found themselves suddenly starved of donor funding, concessional loans and even foreign direct investment.

In such unnerving times, many provisions of the Treaty which spoke to consultations and co-ordination of economic policies among Member States (Article 39), co-operation in monetary payments and exchange rate policies (Article 43), co-ordination of national development planning (Article 45), regional industrial programming (Article 46) and

joint development of natural resources (Article 47) had long since become no more than dead letters[29]. In fact, although Member States had agreed before the end of the century on certain economic convergence criteria and had even agreed on free convertibility of national currencies, the Committee of Central Bank Governors determined that the goal of monetary union for the Caribbean Community was light years away. This determination was fortified by the co-existence of fixed and floating exchange rates in the Community. However, the sentiment is entertained in some quarters that central bank governors have a marginal interest in not accelerating their irrelevance and imminent demise by promoting a monetary union in the Caribbean Community. This possibly explains their reluctance to recommend that compliance with economic convergence criteria be sanctioned in some treaty-related form. Voluntary compliance, as the European experience demonstrates, has its shortcomings to the extent that non-compliance is quite often the only available option for political survival by competent decision-makers.

As is generally known, economic integration is only one of the three pillars on which the Caribbean Community was built. The other two, functional co-operation and foreign policy co-ordination, registered significant measures of success and indifferent achievements during the old dispensation. In the area of functional co-operation, for example, it is generally accepted that the establishment of the Caribbean Examinations Council (CXC) was an outstanding success. Contrary to the expectations of its staunchest supporters and to the dire predictions of its ardent detractors, the credibility of the certification of the Council has been firmly established in the Western hemisphere. Holders of CXC certificates are accepted in leading academic institutions in Britain, Canada, the United States, Australia, New Zealand and other Commonwealth countries, and continue to perform with commendable success. Indeed, certification bodies of Britain and Africa have shown keen interest in the organisation and functioning of the CXC. In the area of legal education, the Council of Legal Education (CLE) has established three law schools in Jamaica, Trinidad and Tobago and The Bahamas, and these are supplied with graduates from the Faculty of Law of the University of the West Indies (UWI) in Cave Hill, Barbados and from the Department of Political Science and Law of the University of Guyana. The CLE is primarily concerned with ensuring that the teaching and practice of law in the Caribbean Community address regional concerns and have relevance for the achievement of the broad social and economic objectives of the Community.

To the extent that foreign policy objectives are never entirely dissociated from concerns of a domestic nature which, in turn, are a function of geography, size, stage of economic development, political and social perspectives, to name a few considerations, national foreign policies tend to diverge and render co-ordination oftentimes intractable. In this regard, the Member States of the Caribbean Community were no exception, and the co-ordination of their foreign policies has been attended by mixed results. However, in terms of support for the territorial integrity and political independence of their Member States, foreign policy co-ordination in the Caribbean Community has achieved considerable successes in respect of Guyana and Belize. Indeed, it is an open secret that the vocal, imaginative and unqualified support of CARICOM States for these two Member States of the Community have been instrumental in ensuring their entry to the Organisation of American States, in keeping at bay the aggressive, expansionist, neo-colonialist unprincipled running dogs of Venezuela and Guatemala, both of which

presume to ground claims to neighbouring territory on the allegedly higher moral authority of Spanish imperialism over British colonialism, impervious to the generally accepted principles of international law concerning friendly relations among States and the impermissibility of the use of force contrary to relevant provisions of the United Nations Charter. With rare exceptions, the Community has recorded a reasonably successful co-ordinated policy on international candidatures[30]. In various other areas of endeavour, however, foreign policy co-ordination appears to have been unable to overcome the embarrassingly contradictory objectives in relation to policies on China, international whaling[31] and co-operation against illicit maritime traffic in drugs[32].

The foregoing aberrations notwithstanding, there appears to be a perception in informed circles of the Region that the Caribbean Community has made significant achievements in the co-ordination of foreign policy. Firstly, as testimony to the importance of a co-ordinated foreign policy, the Revised Treaty has elevated what was formerly an institution of the Community - the Standing Committee of Ministers Responsible for Foreign Affairs (SCMFA) - to the status of an Organ, the Council for Foreign and Community Relations (COFCOR), which is charged, *inter alia*, with establishing measures to co-ordinate the foreign policies of Member States of the Community. Pursuant to its mandate, COFCOR meets twice annually to co-ordinate policies of the Member States on issues of regional concern. COFCOR also seeks to ensure that embassies in various capitals are kept abreast of its determinations. CARICOM ambassadors in multilateral fora, like the United Nations (UN) and the Organisation of American States (OAS), also co-ordinate their efforts in various Committees. But, perhaps, the most signal example of successful foreign policy co-ordination is to be found in the area of external trade negotiations, commencing with Lome I, for which the Caribbean States were instrumental and which constituted a watershed in north-south relations. Similar co-ordination efforts contributed to the successor Lome Agreements and the recent Cotonou Agreement.

External negotiations are now conducted by the Regional Negotiating Machinery (RNM) under the guidance and direction of the Prime Ministerial Sub-Committee on External Negotiations. The RNM consists of a body of regional experts devoted to preparing for, and conducting, multilateral negotiations on behalf of the Region in the EU/ACP, World Trade Organisation (WTO) and the Free Trade Area of the Americas (FTAA) fora. In these fora, the CARICOM Member States are vigorously advocating special and differential treatment for small, fragile economies to enable them to engage in the wider integration movements.

One other outstanding example of successful foreign policy co-ordination is to be found in current efforts by the Task Force established by the Commonwealth Secretariat and the World Bank on Small States. This Task Force led by the Prime Minister of Barbados was able to persuade the World Bank to focus on the problems of small States. The Community also co-ordinates its external approaches for donor funding from Europe, the United States (US) , the Inter-American Development Bank (IDB), the Commonwealth Fund for Technical Co-operation (CFTC) and the United Nations Development Programme (UNDP). This has resulted in significant cost-effectiveness and has enhanced the support of the Donor Community for regional initiatives.

In evaluating the achievements of the negotiators responsible for crafting the Treaty of Chaguaramas (1973) Establishing the Caribbean Community and Common Market, one of the participants made the following submissions:

As articulated in the Annex, the Common Market's objectives are as follows:

a) the strengthening, co-ordination and regulation of the economic and trade relations among Member States in order to promote their accelerated harmonious and balanced development;

b) the sustained expansion and continuing integration of economic activities, the benefits of which shall be equitably shared taking into account the need to provide special opportunities for the Less Developed Countries;

c) the achievement of a greater measure of economic independence and effectiveness of its Member States in dealing with states, groups of states and entities of whatever description. " (Article 3 of the Annex).

Against this background of stated objectives and in the light of the foregoing examination of arrangements devised for their achievement, it does appear fair to conclude that the Caribbean Community and Common Market is institutionally weak constituting merely a hesitant first step. Thus, as remarked earlier, there is no provision for a common transport policy in a region consisting of disparate entities separated from one another by thousands of miles of sea in some cases. Similarly, the schemes for the rationalisation of industrial and agricultural production leave much to be desired in terms of implementing instrumentalities. More damaging is the absence of even the most rudimentary machinery for the equitable distribution of benefits deriving from economic integration. Yet, given its historical and institutional antecedents and the climate of opinion dominant in the region, the experiment does constitute a bold beginning. Bold in that it expresses in concrete terms the adoption of measures which even the most optimistic commentators not so long ago considered conceptually beyond the capacity of the competent decision-makers. A beginning in so far as the implementing instruments themselves envisage progressive development in its content and structure. Undoubtedly, the built-in veto enjoyed by every Member State may operate to frustrate development along constructive lines. Equally however, the veto, far from exerting a debilitating influence may serve to ensure that development proceeds on the broader basis of consensus thus ensuring greater strength for the structure as it adapts to the dynamics of international and national life. What is required at present is confidence in the region's ability to develop rationally and the political will to realise this objective. What is required in future is a dynamic equilibrium between exclusive and inclusive claims. Whether such confidence will be forthcoming in the early years of this experiment would depend on the readiness to implement the instruments in good faith and in a manner calculated to reduce the possible incidence of crises. For it is doubtful whether the organisation in its present structure is geared to cope adequately with crises arising from the implementation of the instruments. In this context one need only advert to the fact that the Common Market does not provide for any organ to be in continuous session to monitor its operation and to put it back on course as occasion demands; nor are the judicial institutions designed to ensure uniformity in the interpretation and application of the relevant instruments nor to secure the stability of expectations so vital for success in any socio-economic situation. But assuming success in solving the teething problems of the organisation the prospects for progressive development appear to be evenly balanced.[33]

POST- GRAND ANSE

Dramatic changes in the international economy following the collapse of the Soviet Union in 1989 prompted CARICOM decision-makers to weigh available options in charting a course for the remainder of the century and the new millennium. Foremost among these changes was the transformation of the European Common Market into the European Union (1992) and the establishment of a firm time-table for monetary union. Coincident with these developments was the USA/Canada Free Trade Agreement and its subsequent conversion into the North American Free Trade Association (NAFTA) with the accession of Mexico. The imminent erosion of preferences enjoyed by CARICOM Member States in Europe (Lomé Convention) in the USA, the Caribbean Basin Initiative (CBI) and in the CARICOM/Canada Free Trade Agreement (CARIBCAN) constituted a belated wake-up call for CARICOM policy-makers. Only a few years earlier, policy-makers had issued the Declaration of Grand Anse (1989) and established the wide-ranging West Indian Commission whose Report, *Time for Action,* was produced in 1992. On the basis of a dispassionate, candid and eminently empirical analysis, the Commissioners recommended immediate steps by decision-makers to deepen and widen the Caribbean Community and enhance the quality of regional governance, which was expressed to be impaired by implementation paralysis, or suffer irreparable damage to their credibility and legitimacy. Among the recommendations submitted by the West Indian Commission were the establishment of a Caribbean Commission, a quasi-political organ interposed between the Heads of Government and the Secretariat to focus on policy formulation and implementation. In addition, the West Indian Commission recommended a rapid development of the Single Market and Economy contemplated at Grand Anse, 1989, the formulation of the Assembly of Commonwealth Caribbean Parliamentarians, the establishment of a Caribbean Supreme Court with original jurisdiction and the elaboration of a Charter of Civil Society.

With an uncharacteristic alacrity, the Heads of Government assembled in 1972 mandated the elaboration of the Charter of Civil Society, the elaboration of an agreement to revise the Treaty of Chaguaramas for the establishment of the CARICOM Single Market and Economy, the establishment of the Caribbean Court of Justice and putting into operation, the Agreement establishing the Assembly of Commonwealth Caribbean Parliamentarians. To the credit of the CARICOM Secretariat and its overworked officials, the legal infrastructure for the establishment of all these institutions as well as the constituent instrument of the Association of Caribbean States was completed before the end of the millennium. Never before in the history of CARICOM was so much achieved by so few in such a short space of time. What follows is a brief exposé of the institutional arrangements which were established during this period.

The institutional arrangements contemplated by CARICOM policy-makers during the last decade of the twentieth century required a far-reaching re-ordering of the Treaty of Chaguaramas which had its genesis in a fundamentally different milieu - nationally, regionally and internationally. Although some of the institutions established are not organically part of the CARICOM system, for example, the Association of Caribbean States (ACS), all of them are products of CARICOM initiatives. Foremost among

these institutions is the CARICOM Single Market and Economy, which is no less than the institutional expression of an attempt to establish a single economic space stretching from Belize in Central America to Guyana in South America and reconfigured to include French-speaking Haiti and Dutch-speaking Suriname. The relevant institutional arrangements are set out in nine Protocols Amending the Treaty Establishing the Caribbean Community. These Protocols were subsequently consolidated and integrated into the Revised Treaty of Chaguaramas, 2001.

The Revised Treaty of Chaguaramas which was signed by Heads of Government at the twenty-second Meeting of the Conference of Heads of Government, which convened in Nassau, The Bahamas in July, 2001, marks a fundamental departure from the old dispensation. Predictably, the Conference remains the highest decision-making organ with voting procedures governed by the unanimity principle, the juridical expression of sovereign equality of States in traditional international law. Significantly, however, the unanimity rule is not unqualified as it was in the old dispensation[34], thereby injecting a measure of flexibility in the decision-making process. The Community Council of Ministers, consisting of Ministers responsible for CARICOM Affairs, replaces the Common Market Council as the second highest decision-making organ in the Community which remains an association of sovereign States[35]. The remit of this organ is very wide and this was intended to relieve the Conference of much political and economic trivia customarily referred to it for determination in the previous dispensation.[36]

Perhaps, one of the most significant changes in the institutional architecture of the new dispensation, however, is the fusion of the political and economic dimensions of the Caribbean Community and Common Market consisting of two co-existing legal personalities. The current arrangements speak to a Caribbean Community *including* the CARICOM Single Market and Economy. The difference in the two dispensations would be similar to the difference between a mother and child and a mother *with* child. That is, the difference between an extremely close but separate relationship, and a symbiotic relationship. This new institutional configuration has dramatised the need for innovative juridical arrangements to accommodate The Bahamas' membership of the Caribbean Community without participation in the economic dimension of the organisation. The Conference established a sub-committee to address this complex issue since the political and economic dimensions of the Caribbean Community are now institutionally, politically and juridically indistinct. Institutionally, all organs and bodies in which The Bahamas actively participates operate as entities of one institution. Politically, The Bahamas has been given portfolio responsibilities in the Caribbean Community which require both political and economic determinations. Juridically, the Caribbean Community is defined as including the CARICOM Single Market and Economy.

In terms of the other institutional arrangements, the plethora of institutions adorning the Caribbean Community and Common Market have been replaced with four organs and three bodies - the Council for Finance and Planning (COFAP); the Council for Trade and Economic Development (COTED); the Council for Foreign and Community Relations (COFCOR); the Council for Human and Social Development (COHSOD); the Legal Affairs Committee (LAC); the Budget Committee and the Committee of Central Bank Governors. The nomenclature of these entities provides a clear indication of the nature of their remits. These organs and institutions report to the Community

Council whose competence embraces general oversight of the CSME and resource allocation. Subject to the policy determinations of the Conference, the Community Council also has control of the purse of the Community, thereby underscoring its importance in critical decision-making[37].

One significant change in the internal procedures of the Community is the abandonment of the unanimity rule in the voting procedures of entities other than the Conference. Decisions on substantive issues in the Councils are reached by qualified majority vote and such decisions are legally binding[38]. In exceptional circumstances, however, Member States may invoke the unanimity rule on the satisfaction of specified conditions[39]. In order to facilitate the process of integration, Member States may decide to opt out of certain arrangements provided the objectives of the Community are not thereby compromised[40]. The changes in voting procedures for the organs and bodies of the Caribbean Community are designed to prevent the progress of integration moving at the pace of the slowest and to achieve dynamic stability in the development of the organisation. Time will demonstrate the success and viability of these initiatives.

The CARICOM Single Market and Economy aspires to the creation of a single economic space superimposed on autonomous political jurisdictions in order to approximate in fact, if not in law, a single jurisdiction from the economies of many Member States. In this single economy national treatment would provide the basis of all interpersonal relations of CARICOM nationals in every national jurisdiction[41] and the goal has been expressed to be monetary union and a single currency based on the convergence of relevant economic, monetary, fiscal and exchange rate policies. It is also contemplated that convergence in the areas identified would be paralleled by convergence in foreign and foreign economic and trade policies.

Supportive of these policies would be programmes to promote the free movement of goods, services, capital and agreed categories of skills to facilitate the exercise of the rights of establishment and provision of services. Implementation of these programmes will depend for success on the establishment of various measures at the national plane to remove restrictions on the provision of services and the right of establishment, transferability of social security benefits, mechanisms for equivalence and accreditation or mutual recognition of certificates, elimination of work permits and restrictions on the ownership of land and securities, an intraregional double taxation regime, harmonisation of corporate taxation and various enactments constituting enabling legal infrastructure.

New institutions will also have to be created to facilitate the new paradigm of outward-looking international competitiveness protection of competition and the welfare of the consumer, all of which were honoured more in the breach than in the observance under the old dispensation. In this connection, it may be apposite to remember that Article 30 of the original Treaty which addressed restrictive business practices was never enforced. To achieve these objectives, a regional standardising institution, the CARICOM Organisation for Standards and Quality (CROSQ), is in an advanced stage of formation, and Protocol VIII provides for the establishment of a Regional Competition Commission to address cross-border infringements of the rules of competition and to support national competition authorities in promoting consumer welfare in the Community. However, in the final analysis, credibility of the entire process is likely to depend on the extent to which rights accorded to Community nationals by these novel institutional arrangements are not illusory and obligations assumed by Member States

are not vacuous, unenforceable, verbal commitments. This is where the significance of the role of the proposed Caribbean Court of Justice in the exercise of its original jurisdiction lies[42]. The establishment of the Court will constitute one of the most far-reaching institutional developments in the Caribbean Community.

The proposed Caribbean Court of Justice would be unique in the history of international institutions. For not only will it be a municipal court of last resort in substitution for the Judicial Committee of the Privy Council, but also an international tribunal of first instance exercising compulsory and exclusive jurisdiction and employing international law in interpreting and employing the Revised Treaty of Chaguaramas[43] In the exercise of its original jurisdiction, the Court is expected to play a determinative role in the functioning and development of the CARICOM Single Market and Economy. Given that the Caribbean Community is designed to be an association of sovereign States, the rights accorded by and under the constituent instrument devolve in the first instance on parties to the Treaty. The doctrine of direct effect emerging from the experience of the European Union is unlikely to have any accommodation in the Caribbean Community. Community nationals benefit from the enjoyment of those rights only when the Treaty takes effect in international law and is implemented by national legislation of Member States of the Community.

The rights accruing to Community nationals from and under the Treaty are extensive, including the right of establishment, the right to provide services, the right to move capital and the right as a graduate or skilled person to enter, reside and seek employment in any Member State[44]. Rights contingent on the exercise of the foregoing rights are to be set out in a Protocol to the Treaty[45].

The foregoing thumb sketch analysis and evaluation of the Treaty of Chaguaramas was intended to examine the prospects for survival and development of the regional economic integration movement which, juridically if not yet in fact, has progressed from a loose, institutionally weak and disparate trading regime to a single market and economy.

The development paradigm which informed the regime established by the original Treaty of Chaguaramas, 1973, was based on an inward-looking, protectionist, import-substitution process. This paradigm was buttressed by regional industrial programming, ownership and control of regional natural resources, and regional self-reliance. Having not been attended by any degree of success, this development paradigm metamorphosed by 2000 into a development paradigm of qualitatively different vintage, based on export-oriented, internationally competitive production of goods and services - a metamorphosis occasioned by fundamental changes in the orientation and structure of the international economy. The regional institutional response to this paradigm shift found expression, on the one hand, in the arrangements for decision-making in Community organs and in the restructuring of those organs themselves. Consequently, although the status of the Caribbean Community as an association of sovereign States remained unchanged, the unanimity rule, which is normally perceived as the juridical expression of sovereign equality of States, was modified in a significant particular. In the Conference, the highest decision-making body, the unanimity principle was qualified, while in other organs of the Community it was virtually abolished.

Further, significant changes in the Community's institutional architecture were achieved with proposals to establish a Caribbean Court of Justice (CCJ) with exclusive and compulsory jurisdiction in respect of the interpretation and application of the Revised

Treaty. In the exercise of its original jurisdiction in relation to the Revised Treaty, the CCJ would be performing the functions of an international tribunal applying rules of international law. As a novel development in international law, the determinations of the CCJ would constitute *stare decisis*. Other important institutions to be established are the CARICOM Organisation for Standards and Quality (CROSQ) for the establishment of regional standards and technical regulations, and the Regional Competition Commission for protection of competition.

One other important institutional development is to be found in the establishment of the Development Fund 'for the purpose of providing financial or technical assistance to disadvantaged countries, regions and sectors'. The Development Fund is an integral part of the arrangements proposed to assist the transition of weaker economies of the Caribbean Community from the Common Market to the Single Market and Economy. It is envisaged that problems of adjustment must arise for the more fragile national economies and that even the stronger economies, regions and sectors may encounter such problems from time to time. Consequently, the Revised Treaty devotes a chapter to disadvantaged countries, regions and sectors, and in that chapter a special regime is established for less developed countries (LDCs)[46]. The Revised Treaty also attempts to fill a lacuna in the original Treaty relating to transport by devoting a separate chapter to this sector[47]. Collectively, the new institutional and other arrangements are designed to lend credibility to the current integration initiative and to address some perceived shortcomings of the old dispensation.

Notes

1. Compare the objectives of the Caribbean Community and Common market established by the original Treaty of Chaguaramas, 1973, which read as follows:

   (a) the economic integration of the Member States by the establishment of a common market regime (hereinafter referred to as "the Common Market") in accordance with the provisions of the Annex to this Treaty with the following aims:-

   (i) the strengthening, co-ordination and regulation of the economic and trade relations among Member States in order to promote their accelerated harmonious and balanced development;

   (ii) the sustained expansion and continuing integration of economic activities, the benefits of which shall be equitably shared taking into account the need to provide special opportunities for the Less Developed Countries;

   (iii) the achievement of a greater measure of economic independence and effectiveness of its Member States in dealing with States, groups of States and entities of whatever description;

   (b) the co-ordination of the foreign policies of Member states; and

   (c) functional co-operation, including -

   (i) the efficient operation of certain common services and activities for the benefit of its peoples;

   (ii) the promotion of greater understanding among its peoples and the advancement of their social, cultural and technological development;

   (iii) activities in the fields specified in the Schedule and referred to in Article 18 of this Treaty.

   The objectives of the Caribbean Community including the CARICOM Single Market and Economy (CSME) are set out at p..... of this Volume

2. Consider in this context the West Indian Shipping Co. (WISCO) and the Caribbean Food Corporation (CFC). The CARICOM Enterprise Regime (CEL) was apparently never operationalised and many of its objectives were probably superseded by the CSME.

3. These are Protocol I (Institutional Arrangements); Protocol II (Establishment, Services and Capital); Protocol IV (Trade Policy), and Protocol VII (Disadvantaged Countries, Regions and sectors).

4. The Agreement Establishing the Caribbean Free Trade Association was signed at Dickenson Bay on 15 December 1965 by Antigua, Barbados and British Guiana

5. See, for example, Duke E. Pollard, *Institutional and Legal Aspects of the Caribbean Community*, Caribbean Studies, Vol. 14 No.1 April 1974 pp. 40-74. Also J. H. Proctor, *Constitutional Defeats and the Collapse of the West Indian Federation*, Public Law, Summer 1964, p.125; Eric Williams, *Inward Hunger* (London: Andre Deutche), 1972.

6. See, for example,

7. See D.E. Pollard, *op.cit.*; at pp.39-40.

8. *Vide*, for example, Articles 4(b) and 10(d) of the Treaty of Chaguaramas, 1973

9. *Vide* Article 2(2) of the Common Market Annex to the Treaty Establishing the Caribbean Community (1973). This provision reads as follows: 'States, listed in paragraph 1(a) of this Article, the Governments of which are parties to the Treaty Establishing the Caribbean Community (hereinafter referred to as the "Treaty") shall become members of the Common Market ...'. However, the subsequent conversion of the Caribbean Community and Common Market to the Caribbean Community including the CARICOM Single Market and Economy has occasioned a seemingly intractable problem in terms of accommodated The Bahamas in the new dispensation.

10. See D. E. Pollard, *op. cit.*, at p.47. D. E. Pollard was the Guyana representative in the Regional negotiations and was therefore in a position to write with some authority on the process as it unfolded.

11. One outstanding exception in relation to decisions of the Conference is to be found in article 3 which addresses the status of Member States. But generally, see Articles 9(2) and 13(2). In the determinations of Conference, the unanimity rule was unqualified, unlike the case of voting in Institutions. See generally, *The Caribbean Community in the 1980s*, Caribbean Community Secretariat, 1980, Chapter 9.

12. See, for example, Articles 13(6), 18(5), 29(3), 56(2) of the Treaty of Chaguaramas, 1973.

13. See D. E. Pollard, *op. cit.*, at p.46.

14. *Vide*, J. L. Labrinidis,*The Structure and Function of the European Free Trade Area* (London: Stevens & Sons, 1965), pp.98 - 103

15. Consider the views of the Group of Experts Appointed by the Common Market Council of Ministers in *The Caribbean Community in the 1980s*, Caribbean Community Secretariat, p.17.

16. See Article 211 and Article 216 of the Revised Treaty.

17. See Article 214 of the Revised Treaty of Chaguaramas.

18. See Article 177 of the Rome Treaty.

19. See Article 211 of the Revised Treaty.

20. See Article 221 of the revised Treaty.

21. *Vide* D. E. Pollard, *Law and Policy of Producers' Associations,*Clarendon Press, 1984, pp.21-32.

22. *Vide* Leonard Archer et al, *A Review of the Structure and Functioning of the Caribbean Community Secretariat*, Caribbean Community, April 2001, para.3 .1.2

23. *Op.cit.* at p.2

24. *Op.cit.* at p.213

25. See *Time for Action*, Report of the West Indian Commission, 1992, p.479.

26. *Vide* D. E. Pollard et al, *Environmental Laws of the Commonwealth Caribbean*, Caribbean Law Institute, 1992, p.17.

27. See Leonard Archer et al, *op.cit.*, para. 3.2.3.

28. But contrast the view expressed in *The Caribbean Community in the 1980s*, *op.cit.* p.4.

29. This could be deduced from the Terms of Reference of the Group of Experts appointed by the Caribbean Common Market Council of Ministers and which read in part:

> ... to review .... the need to implement more fully the provisions of Chapter VI of the Common Market Annex to the Treaty - particularly with regard to Article 46 on the Common Market Industrial Programming, Article 47 on Joint Development of Natural Resources,Article 48 on Marketing of Agricultural Products, Article 49 on Rationalisation of Agricultural Production and Article 50 on Co-operation in Tourism so that regional production structures can be more effectively integrated and strengthened ..

30. The outstanding exception relates to the election of Gaviera to the post of Secretary-General of the Organisation of American States (OAS).

31. OECS support Japan on whaling appears to be contrary to the policy of most MDCs of CARICOM.

32. The USA has concluded Shiprider Agreements with most CARICOM States and these are materially different to maritime drug interdiction agreements concluded with Jamaica and Barbados.

33. *Vide*, D. E. Pollard, *op.cit.*, at pp.72-73.

34. *Vide* Article 28(2) of the Revised Treaty of Chaguaramas.

35. *Vide* Article 10(1) of the Revised Treaty of Chaguaramas.

36. *Vide* Article 13(2) of the Revised Treaty of Chaguaramas.

37. *Vide* Article 13(4) (a) of the Revised Treaty of Chaguaramas.

38. *Vide* Article 29(1) of the Revised Treaty of Chaguaramas.

39. *Vide* Article 29(3) of the Revised Treaty of Chaguaramas.

40. *Vide* Article 27(4) of the Revised Treaty of Chaguaramas.

41. *Vide* Article 7 of the Revised Treaty of Chaguaramas.

42. The Agreement Establishing the Caribbean Court of Justice was signed in Nassau, The Bahamas on 6 July 2001 at the 22nd Meeting of the Conference of Heads of Government of the Caribbean Community.

43. See Article 211 of the Revised Treaty of Chaguaramas Establishing the Caribbean Community, including the CARICOM Single Market and Economy.

44. *Vide* Articles 32, 36, 40 and 46 of the Revised Treaty of Chaguaramas.

45. See Article 239 of the Revised Treaty of Chaguaramas

46. See Chapter Seven : Disadvantaged Countries, Regions and Sectors, of the Revised Treaty of Chaguaramas

47. See Chapter VI : Transport Policy, of the Revised Treaty of Chaguaramas

Part Two

Early Beginnings

2

THE UNIVERSITY OF THE WEST INDIES

The University of the West Indies (UWI), an icon of Caribbean integration, is currently undergoing a process of self-examination prior, it is hoped, to far-reaching restructuring to enable it to address and overcome the challenges of the new millennium. The self-doubt pervading the performance of this venerable institution appears to be due in large measure to the erosion of values which sustained and propelled it to international renown in the last two decades: discipline, an unqualified commitment to excellence and inordinate self-confidence. In the observation of the Chancellor's Commission set up to examine governance in the University of the West Indies,

> '(t)he University has in the past faced squarely, and largely overcome brilliantly, several circumstances of extraordinary challenge : three campuses divided by hundreds of kilometers of open sea; jurisdictional and financial dependence upon fourteen separate national governments; a Region marked by low incomes and sluggish (largely resource-based) economies; broad variations in the academic performance of secondary school leavers'.

Despite uninformed perceptions that the University remains a vibrant institution, the reality is fundamentally different. As a regional institution, the University is in a state of crisis. Verbal commitments to regional unity by participating Governments are not vindicated by their policies. Graduates of the University are not free to secure employment in any jurisdiction; rigid immigration barriers constrain the free movement of academic staff in most jurisdictions and non-campus students do not enjoy unimpeded access to courses of the University. There appears to be a crisis of confidence in the internal administrative structure of UWI which appear to be archaic and largely out of sync with modern requirements.

The objects of the University as set out in its Charter are: to provide a place or places of education, learning and research of a standard required and expected of a University of the highest standard, and to secure the advancement of knowledge and the diffusion and extension of arts, science and learning throughout the Contributing Countries; to continue and expand its works and activities and, by the example and influence of its corporate life, to promote wisdom and understanding. Complementing these objects is the University's Mission Statement which seeks to support the growth and development of West Indian Society through cost-effective training of the high quality human resource and the generation, adaptation and dissemination of knowledge which the peoples and institutions of the Region require to formulate and implement development plans from time to time; acting as a catalyst to enhance the capability of

the tertiary learning institutions and generally operating as the hub of the tertiary education system in the Region; delivering expertise and advisory services to Governments and the wider West Indian community by enlarging its functional linkages with Governments, business enterprises, and other groups committed to the development of West Indian society; serving as a bridge joining the Region with sources of information, markets, resources and opportunity in the rest of the world; enhancing the standing of the people of the Region in international fora by contributing meaningfully to the world stock of knowledge on development issues and to the arts and literature; and providing a congenital atmosphere for its on-campus and off-campus students and maintaining a friendly and mutually beneficial relationship with its alumni.

The powers of the University to expand the frontiers of knowledge and to undertake courses, examinations and to confer evidence of qualification are extensive. The management of the University resides in the Council, the Campus Councils, the Senate, the Guild of Graduates and such other bodies as may be prescribed by the Senate. The head of the University and president of the Council and Guild of Graduates is the Chancellor who is appointed by the Council in accordance with the Statutes. The executive and academic head of the University is the Vice Chancellor who exercises all the powers of the Chancellor except the hearing of appeals and such functions as may be allocated to the Pro-Chancellor and the Treasurer. The Vice-Chancellor is appointed by the Council. The Pro-Chancellor, the Treasurer and Pro Vice Chancellor are also appointed by the Council. The Council and the Campus Councils are the governing and executive bodies of the University with power to manage all matters not regulated by the Charter or the Statutes.

The Senate is the academic authority of the University and subject to the Statutes and control of the Council regulates and superintends the academic work of the University. The Council and Campus Councils are required to refer to the Senate any matters with academic implications and not previously considered by the Senate. On the other hand, the Senate is required to refer to the Council or Campus Councils, as the case may require, any matter with financial implications. The Guild of graduates is represented on the Council and the Campus Councils. The Authorities of the University are competent to act notwithstanding vacancies in their membership or any irregularities in the appointment of their members.

The Council may, after consultation with the Senate make statutes adding to, amending or revoking the Statutes which, *inter alia*, prescribe or regulate the composition, constitution, functions, powers and duties of the Authorities of the University. The Statutes are set out in a schedule to the Charter and remain in force until added to, amended or revoked as prescribed. The Senate may recommend adding to, altering, amending or revoking the statutes. Subject to the Charter and the Statutes the Council and the Senate may make Ordinances and Regulations to regulate the university, its Authorities and members. By special resolution the Council may amend the Charter.

CHARTER, STATUTES AND ORDINANCES 1998 OF THE UNIVERSITY OF THE WEST INDIES

The University constituted and founded by the Original Charter in the Territories therein specified and bearing the name and style of "The University of the West Indies (hereinbefore and hereinafter referred to as "the University") by which name the Chancellor, Vice-Chancellor and all other persons who are for the time being members of the University pursuant to the Original Charter and Statutes were constituted and incorporated into one Body Politic and Corporate shall continue to be so incorporated and shall also be and is hereby constituted and incorporated in the Bahama Islands and shall continue to have perpetual succession and a Common Seal with power subject to the Customs and Laws of Arms to acquire Armorial Bearings (which shall be duly recorded in Our College of Arms) and with power to break, alter and make anew the said seal from time to time at their will and pleasure and in that name to sue and be sued in all manner of actions and suits with power to take, purchase, hold and also to grant, demise or otherwise dispose of real and personal property and to do all other matters and things incidental or appertaining to a body corporate.

2. The Objects of the University are:

(a) to provide a place or places of education, learning and research of a standard required and expected of a university of the highest standard, and to secure the advancement of knowledge and the diffusion and extension of arts, science and learning throughout the Contributing Countries;

(b) to continue and expand its work and activities and, by the example and influence of its corporate life, to promote wisdom and understanding.

3. The University shall be both a teaching and an examining body and, subject to the provisions of this Our Charter and the Statutes, shall have the following powers:

(a) To grant and confer, under conditions laid down by the University, Degrees and other academic distinctions to and on persons who shall have pursued a course of study approved by the University and shall have passed the examinations or other tests prescribed by the University. Provided that Degrees requesting proficiency in technical subjects shall not be conferred without proper security for testing the scientific or general knowledge underlying technical attainments and provided further that when appointing examiners for examinations in each subject or group subjects forming part of the course of studies required for University Degrees (excluding the examinations for Matriculation in the University) the Senate shall consider in what subjects or group of subjects it is necessary or desirable to appoint external and independent examiners, and in any case in which the Senate considers it to be necessary or desirable to appoint such examiners, the Senate shall make such appointments on such terms and conditions as it shall think fit;

(b) To admit graduates of other Universities to Degrees of equal or similar rank in the University;

(c) To grant and confer Degrees of the University on any persons who hold office in the University as Professors, Readers, Lecturers, or otherwise, or who shall have carried on research therein under conditions laid down by the University;

(d) to grant Diploma, Certificates or other distinctions to persons who have pursued a course of study approved by the University under conditions laid down by the University;

(e) to grant and confer Honorary Degrees and other distinctions, provided that all Degrees and other distinctions so granted and conferred shall be granted and conferred and held subject to any provisions which are or may be made in reference thereto by the University;

(f) On what the University shall deem to be good cause to deprive any person of any Degree, Diploma, Certificate or other distinction granted to or conferred on him by the University.

(g) to provide instruction in such branches of learning as the University may think fit and to make provision for research and for preservation, advancement and dissemination of knowledge in such manner as the University may determine;

(h) to accept the periods of study spent and the examinations passed by students of the University at other Universities or places of learning, including therein the University College, as equivalent to such examinations and periods of study in the University as the University may determine, and to withdraw such acceptance at any time;

(i) to affiliate other institutions or branches or departments thereof and to recognise selected members of the staffs thereof as teachers of the University, and to admit the members thereof to any of the privileges of the University, and to accept attendance at courses of study in such institutions or branches or departments thereof in place of such part of the attendance at courses of study in the University and upon such terms and conditions and subject to such regulations as may, from time to time .....by the University;

(j) To conduct examinations and to examine and inspect schools and other educational institutions and for such purposes to co-operate with other authorities;

(k) to enter into any agreement for the incorporation in or association with the University or any other institution and for taking over, in whole or part, its rights, property, privileges, liabilities and engagements and for any other purpose not repugnant to this Our Charter ;

(l) to institute Professorships, Readerships, Lectureships and such other academic or administrative offices as may be required by the University and to appoint to such offices;

(m) to institute and award Fellowships, Scholarships, Studentships, Exhibitions, Bursaries, Medals, Prizes and other aids to study and research;

(n) to erect, provide, equip and maintain libraries, laboratories, lecture halls and other buildings or things (whether in the Contributing Countries or elsewhere) deemed necessary or suitable or convenient for any of the objects of the University;

(o) to establish and maintain and to administer and govern institutions and places for the residence, recreation and study of the officers, staff, students and guests of the University, whether College Halls, Houses or otherwise, and to license and supervise such institutions and other places whether maintained by the University or not so maintained;

(p) to make provision for research and advisory services and with these objects in view to enter into such arrangements with other institutions or with public bodies as may be thought desirable;

(q) consistent with the objects of the University to undertake printing, publishing and book-selling;

(r) to demand and receive fees, subscriptions and deposits and to impose charges;

(s) to take such steps as may from time to time be deemed expedient for the purpose of procuring legacies, endowments, bequests and other contributions to the funds of the University;

(t) to act as trustees or managers of any property, legacy, endowment, bequest or gift for purposes of education or research or otherwise in furtherance of the work and welfare of the University and to invest any funds representing such property, legacy endowment, bequest or gift, if not immediately required, on such security as the University may deem fit;

(u) to mortgage, to lend, to borrow and to enter into engagements and to accept obligations and liabilities and in all respects without restriction and in the same manner as an individual may manage his own affairs;

(v) to prescribe rules of discipline to which students of the University shall be subject and to make such arrangements as may be necessary to secure the observance of such rules;

(w) to do all such other acts and things whether incidental to the powers aforesaid or not as may be requisite in order to further the objects of the University.

4. Men and women shall be eligible for admission to and as students of the University and for appointments to any Authority, office or employment of or under the University.

5. (1) No religious, political or racial test shall be imposed on or required of any person in order to entitle him to be a student or member of the University or to occupy any position in or on the staff of the University;

(2) No Fellowship, Scholarship, Studentship, Exhibition, Bursary, Medal, Prize or other academic distinction or award of the University shall be limited to persons of any particular Contributing Country or to persons of any particular race or ethnic group, political or other opinion, religion or class, if the cost of the same is met from the general funds of the University.

6. We, Our Heirs and Successors, shall be and remain the Visitor and Visitors of the University and in the exercise of the Visitorial Authority from time to time and in such manner as We or They shall think fit may inspect the University, its buildings, laboratories and general work, equipment, and also the examination, teaching and other activities of the University by such person or persons as may be appointed in that behalf.

7. The Authorities of the University shall be the Council, the Campus Councils, the Senate, the Guild of Graduates and such other bodies as may be prescribed by Statute.

8. The Chancellor shall be the Head of the University and President of its Council and Guild of Graduates. He shall be appointed by the Council as prescribed by the Statutes.

9. The Vice-Chancellor shall be the academic and executive head of the University and in the absence of the Chancellor, or during a vacancy in the office of Chancellor, he shall exercise all the functions of the Chancellor except the hearing of appeals and such functions as may from time to time be specifically allocated in this Our Charter and in the Statutes to the Pro-Chancellor and the Treasurer. He shall confer Degrees in the absence of the Chancellor, or during a vacancy in the office of the Chancellor. He shall be appointed by the Council as prescribed by the Statutes.

10. The University may from time to time appoint a Pro-Chancellor who shall in the absence of the Chancellor, or during a vacancy in the office of Chancellor, act as Chairman of the Council. He shall be appointed by the Council as prescribed by the Statutes.

11. The University may from time to time appoint a Treasurer in such manner and with such powers and duties as may be prescribed pursuant to the Statutes. He shall be appointed by the Council as prescribed by the Statutes.

12. (1) There shall be Pro-Vice-Chancellors in such number as shall be determined by the Council from time to time, one of whom shall, subject to the Statutes, in the absence of the Vice-Chancellor or during a vacancy in the office of Vice-Chancellor exercise all the functions of the Vice-Chancellor.

(2) The Pro-Vice-Chancellors shall be appointed by the Council in accordance with the Statutes.

13. The Council and the Campus Councils shall be the governing and executive bodies of the University with power to manage all matters not provided otherwise by this Our Charter or the Statutes.

14. The Senate shall be the academic authority of the University and shall, subject to the Statutes and the control and approval of the Council, regulate and superintend

the academic work of the University (both in teaching and research) and the discipline of students of the University.

15. The Senate shall have the power to deprive any person on whom the University has conferred any Degree, Diploma or other academic distinction who shall have been convicted of a crime, or in its opinion shall have been guilty of dishonourable or scandalous conduct, of any Degree, Diploma or other academic distinction who shall have been convicted of a crime, or in its opinion shall have been guilty of dishonourable or scandalous conduct, of any Degree, Diploma or other academic distinction conferred by the University, and of all privileges enjoyed by him in virtue thereof, subject to such right of appeal be provided by Statute. The Senate shall have the power to restore to any person any Degree, Diploma or other academic distinction of which he may have been deprived in any case where it considers it fit to do so.

16. (1) It shall be the duty of the Council and the Campus Councils to refer to the Senate any matter coming before the Council or a Campus Council which the Council or that Campus Council considers to have academic implications and which has not been previously considered by the Senate.

(2) It shall be the duty of the Senate to refer to the Council or to a Campus Council any matter coming before the Senate which the Senate considers to have financial implications.

17. There shall be a Guild of Graduates which shall be represented on the Council and on the Campus Councils. The qualifications for and obligations and privileges of membership of the Guild of Graduates shall be such as may be prescribed by the Ordinances.

18. (1) There shall be a Students' Society on each Campus.

(2) The constitution of each Society, its powers and functions and all other matters which it may be thought fit to regulate shall, subject to the provisions of this Our Charter, be as prescribed by the Ordinances.

(3) The constitution of each Society shall provide for the election of a President of that Society.

19. The Authorities of the University shall be competent to act notwithstanding any vacancy in their respective membership, or amongst the officers of which they are comprised, or any irregularities subsequently discovered in the election or appointment of any of their respective members.

20. (1) The Statutes shall, inter alia:

(a) prescribe or regulate as the case may be the composition, constitution, functions, powers and duties of the Authorities of the University and all other matters relative to the Authorities which it may be thought are proper to be so prescribed or regulated; and

(b) provide for the appointment, continuance in office, power and duties of the Chancellor, Vice-Chancellor, Pro-Chancellor, Chairmen of the Campus Councils, Treasurer, Pro-Vice-Chancellors, Campus Principals, Deputy Campus Principals, Deans of the Faculties, University Registrar, University Bursar, University Librarian and other officers of the University.

(2) The Statutes shall be those set forth in the Schedule to this Our Charter and shall remain in force until they have been added to, amended or revoked in a manner hereinafter prescribed.

(3) The Council may from time to time on the recommendation of, or after consultation with the Senate, make Statutes as hereinafter provided, adding to, amending or revoking the Statutes.

(4) Any proposal to make such Statutes, if initiated by the Council, shall be communicated by the Council to the Senate, which shall, not sooner than one month and not later than three months after the receipt of a communication consider the same and report thereon to the Council. The Council, having considered the Report from the Senate, may proceed to make the proposed Statute, with or without amendment.

(5) The Senate shall have the power in a Report to the Council to recommend the making of a new or additional Statutes or the alteration, amendment or revocation of existing Statutes, and it shall be the duty of the Council to consider the same.

(6) Statutes made by the Council shall require approval at a meeting of the Council by the votes of at least three quarters of the number of members present and voting, which number shall not be less than one-half of the total membership of the Council, of which notice setting out the general nature of the business to be transacted has been given not less than twenty-one days before the meeting. Provided that Statutes made by the Council shall not be repugnant to the provisions of this Our Charter and they shall not have effect until assented to by the Chancellor.

(7) The fact that Statutes have been made, added to amended or revoked together with the text of any new or additional Statutes and of any amendments of any Statutes in force and a statement of the extent and effect of any revocation of any Statute shall be notified to the Clerk of Our Privy Council.

(8) The Power of the Council to make Statutes shall not be limited by or with reference to, the Statutes at any time in force or to the several matters therein dealt with.

(9) The Council by Statute may, in respect of the title of any office or officer of the University or in respect of the name or designations of any country referred to in or any authority established by or by virtue of this Our Charter, substitute a new title, name or designation, as the case may be, and thereafter any reference to the former title, name or designation, whether in this Our Charter, the Statutes, Ordinances, Regulations or otherwise, shall be construed as a reference to the substituted title, name or designation.

(10) In this Our Charter "Statutes" means the Statutes set forth in the Schedule hereto and any Statutes altering, amending, adding to or revoking the same or any of them which may hereafter be made in manner aforesaid.

21. (1) Subject to the provisions of this Our Charter and the Statutes the Council and the Senate respectively may from time to time make Ordinances and Regulations respectively to direct and regulate the University and its Authorities and members. The power to make Ordinances and Regulations shall include the power to add to, amend, alter or revoke any Ordinances and regulations heretofore made.

(2) Subject to the provision of this Our Charter and the Statutes, the Authorities of the University shall have power to control and regulate their proceedings by Standing Orders or in whatever other manner they may each think fit and that power shall include the power to alter, amend, add to or revoke any Standing Order or other arrangements theretofore made by them.

22. (1) The Council may at any time alter, amend, add to or revoke any of the provisions of this Our Charter by a Special Resolution in that behalf, and such alteration, amendment, addition or revocation shall, when allowed by Us, Our Heirs or Successors in Council become effectual, so that this Our Charter shall thenceforward continue and operate as though it had been originally granted, and made as so altered, amended, added to or revoked in manner aforesaid.

(2) This Article shall apply to this Our Charter, as altered, amended, added to or revoked in manner aforesaid.

23. In the case of conflict the provisions of this Our Charter shall prevail over those of the Statutes, Ordinances and Regulations; the provisions of the Statutes shall prevail over those of the Ordinances and Regulations; and the provisions of the Ordinances shall prevail over those of the Regulations.

24. (1) In this Our Charter the expression "Special Resolution" shall have the meaning assigned thereto in the Statutes, and the expression "Contributing Countries" shall mean Antigua and Barbuda, The Commonwealth of the Bahamas, Barbados, Belize, the British Virgin Islands, the Cayman Islands, the Commonwealth of Dominica, Grenada, Jamaica, Montserrat, St. Christopher and Nevis, St. Lucia, St. Vincent and the Grenadines and the Republic of Trinidad and Tobago and such other countries as may hereafter undertake to contribute to the revenues of the University on a continuing basis.

(2) The Council in any case of doubt shall determine which countries are Contributing Countries for the purpose of this Our Charter and the Statutes made thereunder.

25. Our Royal Will and Pleasure is that these Presents shall ever be construed benevolently, and in every case most favourable to the University and the promotion of the objects of this Our Charter.

IN WITNESS WHEREOF we have caused these Our Letters to be made Patent

WITNESS Ourself at Westminster the Twenty-fifth day of August 1972 in the Twenty-First year of Our Reign.

3

THE UNIVERSITY OF GUYANA

Despite the noble motivations and lofty aspirations which might have informed the decision to establish the University of Guyana as a separate entity, there is a lingering perception that the creation of this body was the institutional expression of an attempt on the part of the administration in British Guiana to distance itself from regional integration efforts. At the material time, the University College of the West Indies (UCWI) located at the Mona campus in Jamaica was the outstanding Tertiary level institution in the Commonwealth Caribbean, and much of its teaching staff and policy-making officials were drawn from extra-regional sources in the Commonwealth. In the premises, genuine reservations were entertained by the administration in British Guiana about the ability of UCWI to generate the kind and quality of intellectual ferment to sustain a truly indigenous integration initiative and address the developmental needs of British Guiana. But how the establishment of the University of Guyana with little known financial resources and considerably less intellectual resources was expected to resolve this issue remains an unanswered questions.

The governing body of the University is the Board of Governors with power to do or provide for any act or thing in relation to the University which it considers necessary or expedient to do or provide. The Board of Governors consists of the Chancellor, the Principal and Vice-Chancellor, two persons nominated by the Academic Board, two persons nominated by the Guild of Graduates and such number of persons as may be appointed by the competent Minister. The other Authorities of the University are the Academic Board and the Guild of Graduates. The Academic Board is competent, subject to the control and approval of the Board of Governors, to regulate and superintend the education and discipline of the students of the University. Both the Board of Governors and the Academic Board are competent to act notwithstanding any vacancy in their membership.

The Board of Governors is required to make statutes prescribing or regulating, as the case may be, its powers and duties as well as the composition, constitution, powers and duties of other Authorities of the University and all other matters relative to the Board of Governors and other Authorities and to the objects of the University which it may think proper to prescribe or regulate.

The University of Guyana is both a teaching and examining body and, subject to the Act and Statutes, enjoys wide powers to confer degrees and academic distinctions on persons pursuing a prescribed course of study and passing examinations or tests prescribed by the University. The University may provide instruction in any branch of learning it thinks fit and may provide for research and the advancement and

dissemination of knowledge in such manner as it may determine. The University also may for good cause deprive a person of any degree, certificate, diploma or distinction conferred by the University. Other powers of the University are set out in the Act.

ACT TO PROVIDE FOR THE ESTABLISHMENT AND INCORPORATION OF THE UNIVERSITY OF GUYANA AND FOR THE MATTERS CONNECTED THEREWITH

SHORT TITLE

1. This Act may be cited as the University of Guyana Act.

INTERPRETATION

2. In this Act -

"Board of Governors" and "Academic Board" respectively mean the Board of Governors and Academic Board of the University;

"Chancellor" means the Chancellor of the University;

"Principal and Vice Chancellor", and "Bursar" respectively mean the Principal and Vice Chancellor and Bursar of the University;

"Statutes" means Statutes made under this Act;

"University" means the University of Guyana.

INCORPORATION

3. There shall be and there is hereby constituted and founded a University by the name and style of "University of Guyana" by which name the Chancellor, Principal and Vice Chancellor and all other persons who are for the time being members of the University pursuant to this Act and the Statutes shall be and are hereby constituted and incorporated into one body politic and corporate with the power to assume Armorial Bearings and to take, purchase, hold and also to grant, demise or otherwise dispose of moveable and immoveable property.

AIMS

4. The Aims of the University are to provide a place of education, learning and research of a standard required and expected of a university of the highest standard, and to secure the advancement of knowledge and the diffusion and extension of arts, sciences and learning throughout Guyana.

ELIGIBILITY

5. Men and women shall be eligible for admission to and as students of the University and for appointment to any Authority, office or employment of or under the University.

NO RELIGIOUS, POLITICAL OR RACIAL TEST

6. No religious, political or racial test shall be imposed on or required of any person in order to entitle him to be a student or member of the University or to occupy any position in or on the staff of the University.

AUTHORITIES

7. The Authorities of the University shall be the Board of Governors, the Academic Board, the Guild of Graduates and such other bodies as the Board of Governors may by statute prescribe.

COLLEGES

8. There may be established from time to time Colleges of Arts and Sciences, Medicine, Engineering, Agriculture, Education and such other Colleges authorised by the Board of Governors.

CHANCELLOR

9. (1) The Chancellor shall be the Head and Chief Officer of the University and President of its Board of Governors and Guild of Graduates.

(2) A person appointed Chancellor shall hold office for the period expressed in his instrument of appointment and shall be eligible for reappointment.

(3) The first Chancellor shall be Edgar Mortimer Duke, Esquire, C.B.E., LL.B.

PRINCIPAL AND VICE CHANCELLOR

10. (1) The Principal and Vice Chancellor shall be the academic and executive head of the University. In the absence of the Chancellor he shall exercise all the functions of the Chancellor except the hearing of appeals and such other functions as may specifically be allocated by Act or Statute to the Bursar. He shall confer Degrees in the absence of the Chancellor.

(2) The first Principal and Vice Chancellor shall be Lancelot Hogben, Esquire, M.S., D.Sc., F.R.S., LL.D.

TEACHERS

11. The teachers shall be the Professors, Readers, Lecturers, and such other persons as may be designated teachers by the Statutes. The teachers shall be appointed and shall hold office in accordance with the Statutes.

BOARD OF GOVERNORS

12. (1) Subject to this Act, the Board of Governors shall have power to do or provide for any act or thing in relation to the University which it considers necessary or expedient in its capacity as the governing body of the University, and the conferring of particular powers on the Board of Governors by other provisions of this Act shall not be taken to limit the generality of this section.

(2) The Board of Governors shall consist of -

(a) the Chancellor, and the Principal and Vice Chancellor, who shall be members of the Board of Governors by virtue of their office;

(b) not more than two persons to be nominated by the Academic Board when it shall have been constituted;

(c) not more than two persons to be nominated by the Guild of Graduates when it shall have been constituted;

(d) such number of persons as may, from time to time, be determined and appointed by the Minister.

(3) A member of the Board of Governors, other than the Chancellor or the Principal and Vice Chancellor, shall, subject to subsection (4), hold office for the time specified in the instrument appointing him, but in no case, unless re-appointed, shall he continue as a member after the expiration of three years from the date of his appointment.

(4) A member of the Board of Governors appointed by the Minister shall be liable to be removed from office at the pleasure of the Minister.

(5) A member of the Board of Governors shall be eligible for re-appointment.

(6) In the absence of the Chancellor, or Principal and Vice Chancellor, from a meeting of the Board of Governors the members present may elect one of their numbers to be Chairman of the Meeting.

(7) Subject to affirmative resolution of the National Assembly, the Minister may by order amend or rescind paragraphs (b), (c) and (d) of subsection (2), or any of them.

ACADEMIC BOARD

13. The Academic Board shall be the Academic Authority of the University and shall, subject to the Statutes and the control and approval of the Board of Governors, regulate and superintend the education and discipline of students of the University.

DISCIPLINARY POWERS OF ACADEMIC BOARD

14. The Academic Board shall have power to deprive any person on whom the University has conferred any Degree, Diploma or other academic distinction who shall have been convicted of a crime, or in its opinion shall have been guilty of dishonourable or scandalous conduct, of any Degree, Diploma or other academic distinctions conferred by the University, and of all privileges enjoyed by him in virtue thereof, subject to such right of appeal to the Board of Governors and from the decision of the Board of Governors to the Chancellor as may be provided by the Statutes. The Academic Board shall have the power to restore to any person any Degree, Diploma or other academic distinction of which he may have been deprived in any case where it considers it fit to do so.

VACANCIES IN BOARD OF GOVERNORS OR ACADEMIC BOARD NOT TO AFFECT COMPETENCE

15. The Board of Governors and the Academic Board shall be competent to act notwithstanding any vacancy in their respective membership (including any vacancy not filled when either Board is first constituted or is reconstituted at any time) or among the officers of which they are comprised.

GUILD OF GRADUATES

16. There shall be a Guild of Graduates which shall be represented on the Board of Governors. The Board of Governors shall prescribe the qualifications, obligations, and privileges of membership of the Guild of Graduates.

POWER TO CONFER DEGREES, ETC.

17. The University shall be both a teaching and an examining body and shall, subject to this Act and the Statutes, have the following powers, rights and duties -

(a) to grant and confer, under conditions laid down by the University, Degrees and other academic distinctions to and on persons who shall have pursued a course of study approved by the University and shall have passed the examinations or other tests prescribed by the University;

(b) to admit graduates of other universities to Degree of equal or similar rank in the University;

(c) to confer Degrees of the University on any persons who hold office in the University as Professors, Readers, Lecturers or otherwise, or who shall have carried on research therein under conditions laid down by the University;

(d) to grant Diplomas, Certificates or other distinctions to persons who have pursued a course of study approved by the University under conditions laid down by the University;

(e) to confer Honorary Degrees and other distinctions, provided that all Degrees and other distinctions so conferred shall be conferred and held subject to any provisions which are or may be made in reference thereto by the University;

(f) to deprive any person, on what the University shall deem to be good cause, of any Degree, Diploma, Certificate or other distinction granted to or conferred on him by the University;

(g) to provide instruction in such branches of learning as the University may think fit and to make provision for research and for the advancement and dissemination of knowledge in such manner as the University may determine;

(h) to accept the examinations and periods of study passed by students of the University at other Universities or places of learning as equivalent to such examinations and periods of study in the University as the University may determine, and to withdraw such acceptance at any time;

(i) to affiliate or to be affiliated to other institutions or branches or departments thereof and to recognise selected members of the staffs thereof as teachers of the University, and to admit the members thereof to any of the privileges of the University, and to accept attendance at courses of study in such institutions or branches or departments thereof in place of such part of the attendance at courses of study in the University and upon such terms and conditions and subject to such regulations as may from time to time be determined by the University;

(j) to conduct examinations;

(k) to institute Professorships, Readerships, Lectureships, and any other such offices, required by the University and to appoint to such offices;

(l) to institute and award Fellowships, Scholarships, Studentships, Exhibitions, Bursaries and Prizes;

(m) to establish and maintain and to administer and govern institutions for the residence of the students of the University whether College Halls or Houses, and to license and supervise such institutions and other places of residence whether maintained by the University or not so maintained;

(n) to make provision for research and advisory services and with these objects to enter into such arrangements with other institutions or with public bodies as may be thought desirable;

(o) to provide for the printing and publication of research and other works which may be issued by the University;

(p) to demand and receive fees: provided that the University may waive payment of fees, whether in respect of tuition, examination or otherwise;

(q) to act as trustees or managers of any property, legacy, endowment, bequest or gift for purposes of education or research or otherwise in furtherance of the work and welfare of the University, and to invest any funds

representing such property, legacy, endowment, bequest or gift, if not immediately required, on such security as the University may deem fit;

(r) to do all such other acts and things whether incidental to the powers aforesaid or not as may be requisite in order to further the objects of the University.

SITE OF UNIVERSITY

18. The University and the institutions pertaining thereto shall be at such places as the Board of Governors may, from time to time, determine.

STATUTES

19. The Board of Governors shall make Statutes prescribing or regulating, as the case may be, its powers and duties as well as the composition, constitution, powers and duties of all other Authorities of the University and all other matters relative to the Board of Governors and to the other Authorities and to the objects of the University which it may be thought are proper to be so prescribed or regulated and shall have power to alter, amend or repeal any such Statutes.

REGULATIONS

20. The Board of Governors may make regulations to direct and regulate, subject to this Act and to the Statutes, the University and its Authorities and members.

4

THE CARIBBEAN FREE TRADE ASSOCIATION

The collapse of the Federal experiment in 1962 and the emergence shortly thereafter of the independent nations of Jamaica and Trinidad and Tobago were sufficient testimony that political integration in the Commonwealth Caribbean would be a non-starter. However, the failure of political integration did not dampen hopes for economic integration of some form or another especially since the fragile economies of the Commonwealth Caribbean did not offer much hope for their survival as autonomous political entities. Shortly after the collapse of the Federation, initiatives were taken by the United Kingdom, Canada and the United States of America to explore the possibility of some form of integration of the OECS countries and Barbados. These initiatives finally bore fruit in the establishment of the Caribbean Development Bank (and the Eastern Caribbean Central Bank) to harness and manage capital resources for the Region as a whole. Metropolitan concern for the sustainable development of the small economies of the Commonwealth Caribbean was informed by the success of the Cuban revolution and fear that some Commonwealth Caribbean countries might be tempted to go the Cuban route. Indeed, the socialist leanings of the Cheddi Jagan administration in British Guiana were cause for much alarm in the metropolises of the West.

Consequent on the developments mentioned above the environment in the Commonwealth Caribbean was not entirely inauspicious for a modest attempt at economic integration. Furthermore, political changes in the Region tended to favour such a move. The Jagan administration in British Guiana fell from power after the introduction of the Kaldor budget and there was a change of administration in Barbados which brought Errol Barrow's democratic Labour Party to power. Shortly thereafter, Vere Bird Snr., Forbes Burnham and Errol Barrow signed the Dickenson Bay Agreement in 1965 establishing the Caribbean Free Trade Association (CARIFTA). The front runners of the regional economic integration movement at the material time had a choice of models to guide them - the Rome Treaty of 1959 and the European Free Trade Association Agreement (EFTA) of 1960. Perusal of these instruments does appear to confirm that the latter was more persuasive in providing a model for economic integration in the Commonwealth Caribbean that the former.

The objectives of CARIFTA as elaborated in Article 3 of the Dickenson Bay Agreement were: to promote the expansion and diversification of trade in the area of the Association; to ensure that trade between Member territories takes place in conditions of fair competition; to encourage the progressive development of the economies of the Area and to foster harmonious development of Caribbean trade and its liberalisation by

the removal of barriers. Pursuant to this objective the Agreement provided for Area Tariff treatment, not unlike the EFTA Agreement, for intra-regional consignment of goods of area origin status. Member States also undertook not to levy import duties on goods qualifying for area tariff treatment and not to impose export duties in specified circumstances. Similarly, Member States undertook not to impose quantitative import and export restrictions on goods intended for intra-regional trade except in specified circumstances. Supportive of the integration effort were provisions addressing restrictive business practices, dumped and subsidised goods, establishment, approximation of incentive legislation, protectionist revenue and internal taxation measures, government aids, public undertakings and consultations on economic policies. There were also safeguard provisions in case of balance of payments difficulties or difficulties in particular sectors. Moreover, exemptions for obligations assumed under the instrument were made in the interest of public safety, public morality, public health and national security.

Although a bold and interesting initiative, the Dickenson Bay Agreement offered cold comfort for most countries of the OECS, which saw themselves unable to compete with the larger entities of the Commonwealth Caribbean. Consequently, significant adjustments had to be made to the Agreement to bring this group on board. In this connection the Agreement supplemental to the Dickenson Bay Agreement 1965, which called for the establishment of an economic community, assumes considerable significance. One significant change in the supplemental agreement was the deferment of the establishment of an economic community and the immediate creation of a free trade area referred to in the preamble. Another significant change related to the promotion of industrial development in the less developed countries. This provision was probably intended to assuage the apprehensions of the OECS countries regarding their ability to compete with industries from the MDCs. Significant amendments were also made to the Schedules.

The Dickenson Bay Agreement also provided for the recognition and grant by Member territories of privileges and immunities for the Association which were to be set out in a Protocol to the Agreement. The Council was authorised to conclude a headquarters agreement on behalf of the Association with the host government. The Council was recognised as the principal decision-making organ whose decisions and recommendations were to be unanimous except where provided otherwise in the Agreement. The procedure for reaching decisions is indicative of the reluctance of Member countries to compromise their sovereignty. Retention of autonomous decision-making by Member Territories was further emphasised by the provisions of the Agreement requiring its ratification by national legislatures.

THE DICKENSON BAY AGREEMENT

AGREEMENT ESTABLISHING THE CARIBBEAN FREE TRADE ASSOCIATION

The Governments of Antigua, Barbados and British Guiana –

Sharing a common determination to fulfil within the shortest possible time the hopes and aspirations of their peoples of other Caribbean countries for full employment and improved living standards;

Conscious that these goals can most rapidly be attained by the optimum use of available human and other resources and by accelerated and sustained economic development;

Aware that the broadening of domestic markets through the elimination of barriers to trade between the territories is a prerequisite to such development;

Convinced that such elimination of barriers to trade can best be achieved by the immediate establishment of a Free Trade Economic Community for all the countries who so desire;

Have agreed as follows:-

Article 1
Association

1. An Association to be called the Caribbean Free Trade association (hereinafter referred to as "the Association") is hereby established.

2. The Members of the Association, hereinafter referred to as "Member Territories' shall be the Territories on behalf of the Governments of which this Agreement is ratified in accordance with Article 31 and such other Territories as participate therein by virtue of paragraph 1 of Article 32.

3. The institutions of the Association shall be a Council and such organs as the Council may set up.

4. The Caribbean Free Trade Association shall operate over the areas of the Member Territories collectively called the Caribbean Free Trade Area (hereinafter referred to as "the Area").

Article 2
Objectives

The objectives of the Association shall be-

(a) to promote the expansion and diversification of trade in the area of the Association;

(b) to secure that trade between member territories takes place in conditions of fair competition;

(c) to encourage the progressive development of the economies of the Area;

(d) to foster the harmonious development of Caribbean trade and its liberalisation by the removal of barriers to it.

Article 3
Exclusion From This Agreement

The provisions of the Agreement shall not affect the rights and obligations under any agreements entered into by any of the parties to this agreement before it is signed:

Provided, however, that each Party shall take any steps at its disposal which are necessary to reconcile the provisions of any such agreements with the purposes of this Agreement.

Article 4
Import Duties

Subject to the provisions of Annex A, Member Territories shall not apply any import duties on goods which are eligible for Area tariff treatment in accordance with Article 5.

2. For the purposes of this Article and Annex A, the term "import duties" means any tax or surtax of customs and any other charges of equivalent effect – whether fiscal, monetary or exchange – which are levied on imports, except duties notified under Article 7 and other charges which fall within that Article.

3. The provisions of this Article do not apply to fees and similar charges in respect of services rendered.

Article 5
Area Origin for Tariff Purposes

1. For the purposes of Articles 4 – 8, goods shall, subject to Annex B, be accepted as eligible for Area tariff treatment if they are consigned from a Member Territory to a consignee in the importing Member Territory and if they are of Area origin under any one of the following conditions -

(a) that they have been wholly produced within the area;

(b) that they fall within a description of goods listed in a process list to be established by decision of the Council and have been produced within the area by the appropriate qualifying process described in that List;

(c) that they have been produced within the Area and that the value of any materials imported from outside the Area or of undetermined origin which have been used at any stage of the production of the good does not exceed 50 percent of the export price of the goods.

2. For the purposes of sub-paragraphs (a), (b) and (c) of paragraph 1 of this Article, materials listed in the Basic Materials List which forms the schedule to Annex B, which have been used in the state described in that List in a process of production within the Area, shall be deemed to contain no element imported from outside the Area.

3. Nothing in this agreement shall prevent a Member Territory from accepting as eligible for Area tariff treatment any imports consigned from another Member Territory,

provided that the like imports consigned from any Member Territory are accorded the same treatment.

4. Provisions necessary for the administration and effective application of this Article are contained in Annex B.

5. The Council may decide to amend the provisions of this Article, Annex B and the Process List established under sub-paragraph (b) of paragraph 1 of this Article.

6. The Council shall from time to time examine in what respect this Agreement can be amended in order to ensure the smooth operation of the origin rules.

Article 6
Deflection of Trade

1. For the purpose of this Article, trade is said to be deflected when-
   (a) imports into a Member Territory of consignments of a particular product from another Member Territory are increasing-
      (i) as a result of the reduction or elimination in the importing Member Territory of duties and charges in that product in accordance with Article 4 or 7, and
      (ii) because the duties or charges levied by the exporting Member territory on imports of raw materials or intermediate products, used in the production of the product in by the importing Member Territory, and
   (b) this increase in imports causes or would cause serious injury to production which is carried on in the importing Member Territory.

2. The Council shall keep under review the question of deflections of trade and their causes. It shall take such decisions as are necessary in order to deal with the causes of deflection of trade by amending the rules of origin in accordance with paragraph 5 or Article 5 or by such other means as it may consider appropriate.

3. If a deflection of trade of a particularly urgent nature occurs, any Member Territory may refer the matter to the Council. The Council shall take its decision as quickly as possible and, in general within one month. The Council may, by majority decision, authorise interim measures to safeguard the position of the Member Territory in question. Such measures shall not continue for longer than is necessary for the procedure under paragraph 2 above to take place, and for not more than two months, unless in exceptional cases, the Council, by majority decision, authorises an extension of this period by not more than two months.

4. A Member Territory which is considering the reduction of the effective level of its duties or charges on any product not eligible for Area tariff treatment shall, as far as may be practicable, notify the Council not less than thirty (30) days before such reduction comes into effect, and shall consider any representations by other Member Territories that the reduction is likely to lead to a deflection of trade. Information received under this paragraph shall not be disclosed to any person outside the service of the Association or the Governments of Member Territories.

5. When considering changes in their duties or charges on any product not eligible for Area tariff treatment, Member Territories shall have due regard to the desirability of avoiding consequential deflections of trade. In case of any such change, any Member territory which considers that trade is being deflected may refer the matter to the Council in accordance with Article 26.

6. If, in the consideration of any complaint in accordance with Article 26, reference is made to a difference in the level of duties or charges on any product not eligible for Area tariff treatment, that difference shall be taken into account only if the Council finds by a majority vote that there is a deflection of trade.

7. The Council shall review from time to time the provisions of this Article and may decide to amend those provisions.

Article 7
Revenue Duties and Internal Taxation

1. Subject to the provisions of Annex C, Member Territories shall not –
   (a) apply directly or indirectly to imported goods any fiscal charges in excess of those applied directly or indirectly to like domestic goods, nor otherwise apply such charges so as to afford effective protection to like domestic goods; or
   (b) apply fiscal charges to imported goods of a kind which they do not produce, or which they do not produce in substantial quantities, in such a way as to afford effective protection to the domestic production of goods of a different kind which are substitutable for the imported goods, which enter into direct competition with them which do not bear, directly or indirectly, in the country of importation, fiscal charges of equivalent incidence.

2. A Member Territory shall notify the Council of all fiscal charges applied by it where, although the rates of charge, or the conditions governing the imposition or collection of the charge, are not identical in relation to the imported goods and to the like domestic goods, the Member Territory applying the charge considers that the charge is, or has been made, consistent with sub-paragraph (a) of paragraph 1 of this Article. Each Member Territory shall, at the request of any other Member Territory, supply information about the application of paragraph 1 of this Article.

3. For the purposes of this Article and Annex C –
   (a) "fiscal charges" means revenue duties, internal taxes and other internal charges on goods;
   (b) "revenue duties" means customs duties and other similar charges applied primarily for the purpose of raising revenue; and
   (c) "imported goods" means goods which are accepted as being eligible for area tariff treatment in accordance with Article 5.

Article 8
Export Drawback

Each Member Territory may refuse to accept as eligible for Area tariff treatment goods which benefit from export drawback allowed by Member territories in which the goods have undergone the process of production which form the basis of the claim to Area origin. In applying this paragraph, each Member Territory shall accord the same treatment to imports consigned from all other Member Territories.

For the purpose of this Article-

(a) "export drawback" means any arrangement for the refund or remission, wholly or in part, of import duties applicable to imported materials, provided that the arrangement, expressly or in effect, allows refund or remission if certain goods or materials are exported, but not if they are retained for home use;

(b) "remission" includes exemption from duties for materials brought into free ports and other places which have similar customs privileges;

(c) "duties" means (i) all charges on or in connection with importation, except fiscal charges to which Article 7 applies and (ii) any protective element in such fiscal charges;

(d) "materials" and "process of production" have the meanings assigned to them in Rule 1 of Annex B.

Article 9
Prohibition Of Export Duties

1. Member Territories shall not apply any export duties.

2. The provisions of this article shall not prevent any member Territory from taking such measures as are necessary to prevent evasion, by means of re-export, of duties which it applies to exports to territories outside the Area.

3. For the purposes of this Article, "export duties" means any duties or charges with equivalent effect imposed on or in connection with the exportation of goods from any Member Territory to a consignee in any other Member Territory.

Article 10
Co-operation in Customs Administration

Member Territories shall take appropriate measures, including arrangements regarding administrative co-operation, to ensure that the provisions of Articles 4 to 8 and of Annexes A, B and C are effectively and harmoniously applied, taking account of the need to reduce as far as possible the formalities imposed on trade and of the need to achieve mutually satisfactory solution of any difficulties arising out of the operation of those provisions.

Article 11
Freedom of Transit

Products imported into, or exported from, a Member Territory shall enjoy freedom of transit within the Area and shall only be subject to the payment of the normal rates for services rendered.

Article 12
Dumped and Subsidised Imports

1. Nothing in this Agreement shall prevent any Member Territory from taking action against dumped or subsidised imports consistently with any international obligations to which it is subject.

2. Any products which have been exported from one Member Territory to a consignee in another Member territory and have not undergone any manufacturing process since exportation shall, when re-imported into the first member territory, be admitted free of quantitative restrictions and measures with equivalent effect. They shall also be admitted free of customs duties and charges with equivalent effect, except that any allowance by way of drawback, relief from duty or otherwise, given by reason of the exportation from the first member territory, may be recovered.

3. If any industry in any Member Territory is suffering or is threatened with material injury as the result of the import of dumped or subsidised products into another Member Territory, the latter Member Territory shall, at the request of the former Member Territory, examine the possibility of taking, consistently with any international obligations to which it is subject, action to remedy the injury or prevent the threatened injury.

Article 13
Quantitative Import Restrictions

1. Subject to the provisions of Annex D, a Member Territory shall not apply any quantitative restrictions on imports of goods from any other part of the area.

2. For the purposes of the proceeding paragraph and Annex D, "Quantitative restrictions" means prohibitions or restrictions on imports into any Member Territory from any other part of the area whether made effective through quotas, import licences or other measures with equivalent effect, including administrative measures and requirements restricting import.

3. The provisions of this article shall not prevent any Member territory from taking such measures are as necessary to prevent evasion of any prohibitions or restrictions which it applies to imports from territories outside the area.

Article 14
Quantitative Export Restrictions

1. A Member Territory shall not apply any prohibitions or restrictions on exports to any other part of the Area, whether made effective through quotas or export licences or other measures with equivalent effect.

2. The provisions of this Article shall not prevent any Member Territory from taking such measures as are necessary to prevent evasion of any prohibitions or restrictions which it applies to exports to territories outside the Area.

Article 15
General Exceptions

Provided that such measures are not used as a means of arbitrary or unjustifiable discrimination between Member Territories , or as a disguised restriction on the inter-territorial trade of the Area, nothing in Articles 13 and 14 shall prevent the adoption or enforcement by any Member Territory of Measures-

(a) necessary to protect public morals;

(b) necessary for the prevention of disorder or crime;

(c) necessary to protect human, animal or plant life or health;

(d) 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;

(e) necessary to protect industrial property or copyrights or to prevent deceptive practices;

(f) relating to gold or silver;

(g) relating to the products of prison labour;

(h) imposed for the protection of national treasures of artistic, historic or archaeological value; or

(i) necessary to prevent or relieve critical shortages of foodstuffs in any exporting Member Territory.

Article16
Security Exceptions

Nothing in the Agreement shall prevent any Member Territory from taking action which it considers necessary for the protection of its essential security interests, where such action-

(a) is taken to prevent the disclosure of information;

(b) relates to trade in arms, ammunition or war materials or to research, development or production indispensable for defence purposes, provided that such action does not include the application of import duties or the quantitative restriction of imports except in so far as such restriction is permitted in accordance with Article 15 or is authorised by decision of the council;

(c) is taken to ensure that nuclear materials and equipment made available for peaceful purposes do not further military purposes; or

(d) is taken in time of war or other emergency in international relations.

2. Nothing in this Agreement shall prevent any Member Territory from taking action to perform any obligations to which it is subject for the purpose of maintaining international peace and security.

Article17
Government Aids

1. A Member territory shall not maintain or introduce-

   (a) the forms of aid to export of goods to any other part of the Area of the kinds which are described in Annex E; or

   (b) any other form of aid, the main purpose or effect of which is to frustrate the benefits expected from such removal or absence of duties and quantitative restrictions as is required by this agreement.

2. If the application of any form of aid by a Member territory, although not contrary to paragraph 1 of this Article , frustrates the benefits expected from such removal or absence of duties and quantitative restrictions as is required by this Agreement and provided that the procedure set out in paragraphs 1 to 3 of Article 26 has been followed, the Council may, by majority decision, authorise any Member Territory to suspend to the Member Territory which is supplying aid, the application of such obligations under this Agreement as the Council considers appropriate.

3. The Council may decide to amend the provisions of this Article and of Annex B.

Article 18
Public Undertakings

1. Member Territories shall ensure the elimination in the practices of public undertakings, of-

   (a) measures the effect of which is to afford protection to domestic production which would be inconsistent with this Agreement if achieved by means of a duty or charge with equivalent effect or quantitative restriction or government aid; or

   (b) trade discrimination on grounds of Territorial origin in so far as it frustrates the benefits expected from such removal or absence of duties and quantitative restrictions as is required by this Agreement.

2. In so far as the provisions of Article 19 are relevant to the activities of public undertakings, that Article shall apply to them in the same way as it applies to other enterprises.

3. Member Territories shall ensure that new practices of the kind described in paragraph 1 of this Article are not introduced.

4. Where Member Territories do not have the necessary legal powers to control the activities of regional or local government authorities or enterprises under their control in these matters, they shall nevertheless endeavour to ensure that those authorities or enterprises comply with the provisions of this Article.

5. The Council shall keep the provisions of this Article under review and may decide to amend them.

6. For the purpose of this Article, "public undertakings" means central, regional or local government authorities, public enterprises and any other organisation by means of which a Member Territory by law or in practice controls or appreciably influences imports from, or exports to, any other part of the Area.

Article 19
Restrictive Business Practices

1. Member Territories recognise that the following practices are incompatible with this Agreement in so far as they frustrate the benefits expected from such removal or absence of duties and quantitative restrictions as is required by this Agreement –

(a) agreement between enterprises, decisions by association of enterprises and concerted practices between enterprises which have as their object or result the prevention, restriction or distortion of competition within the area;

(b) actions by which one or more enterprises take unfair advantage of a dominant position within the Area or a substantial part of it.

2. If any practice of the kind described in paragraph 1 of this Article is referred to the Council in accordance with Article 26, the Council may, in any recommendation in accordance with paragraph 3 or in any decision in accordance with paragraph 4 of that Article, make provision for publication of a report on the circumstances of the matter.

3. (a) In the light of experience gained, the Council shall consider before 31st December,1967, and may consider at any time thereafter whether further or different provisions are necessary to deal with the effect of restrictive business practices or dominant enterprises on the inter-territorial trade of the Area.

(b) Such review shall include consideration of the following matters –

(i) specification of the restrictive business practices or dominant enterprises with which the Council should be concerned;

(ii) methods of securing information about restrictive business practices or dominant enterprises;

(iii) procedures for investigations;

(iv) whether the right to initiate inquiries should be conferred on the Council.

(c) The Council may decide to make the provisions found necessary as a result of the review envisaged in sub-paragraphs (a) and (b) of this paragraph.

Article 20
Establishment

1. Each Member Territory recognises that restrictions on the establishment and operation of economic enterprises therein by persons belonging to other Member Territories should not be applied, through accord to such persons of treatment which is less favourable than that accorded in such matters to persons belonging to that Member Territory, in such a way as to frustrate the benefits expected from such removal or absence of duties and quantitative restrictions as is required by this Agreement.

2. Member Territories shall not apply new restrictions in such a way that they conflict with the principle set out in paragraph 1 of this Article.

3. A Member Territory shall notify the Council within such period as the Council may decide of particulars of any restrictions which it applies in such a way that persons belonging to another Member Territory are accorded in the first-mentioned Territory less favourable treatment in respect of the matters set out in paragraph 1 of this Article than is accorded to persons belonging thereto.

4. The Council shall consider before 31st December, 1967, and may consider at any time thereafter, whether further or different provisions are necessary to give effect to the principles set out in paragraph 1 of this Article and may decide to make the necessary provisions.

5. Nothing in this Article shall prevent the adoption and enforcement by a Member Territory of measures for the control of entry, residence, activity and departure of persons where such measures are justified by reasons of public order, public health or morality, or national security of that Member Territory.

6. For the purposes of this Article-

(a) a person shall be regarded as belonging to a Member Territory if such person-

(i) is a citizen of that Territory;

(ii) has a connection with that Territory of a kind which entitles him to be regarded as belonging to, or, if it be so expressed, as being a native of, the Territory for the purpose of such laws thereof relating to immigration as are for the time being in force ; or

(iii) is a company or other legal person constituted in the Member Territory in conformity with the law thereof and which that territory regards as belonging to it, provided that such company or other legal person has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity, within the Area;

(b) "economic enterprises" means any type of economic enterprises for production of or commerce in goods which are of Area origin, whether conducted by individuals or through agencies, branches or companies or other legal persons.

Article 21
Balance of Payments Difficulties

1. Notwithstanding the provisions of Article 13 any Member Territory may, consistently with any international obligations to which it is subject, introduce quantitative restrictions on imports for the purpose of safeguarding its balance of payments.

2. Any Member Territory taking measures in accordance with paragraph 1 of this Article shall notify them to the Council, if possible before they come into force. The Council shall examine the situation and keep it under review and may at any time by majority vote make recommendations designed to moderate any damaging effect of these restrictions or to assist the Member Territory concerned to overcome its difficulties. If the balance of payments difficulties persist for more than 18 months and the measures applied seriously disturb the operation of the Association, the Council shall examine the situation and may, taking into account the interests of all Member Territories, by majority decision, devise special procedures to attenuate or compensate for the effect of such measures.

3. A Member Territory which has taken measures in accordance with paragraph 1 of this Article shall have regard to its obligation to resume the full application of Article 13 and shall, as soon as its balance of payments situation improves, make proposals to the Council on the way in which this should be done. The Council, if it is not satisfied that these proposals are adequate, may recommend to the Member Territories alternative arrangements to the same end. Decisions of the Council pursuant to this paragraph shall be made by majority vote.

Article 22
Difficulties in Particular Sectors

1. If, in a Member Territory –
   (a) an appreciable rise in the unemployment in a particular sector of industry or region is caused by a substantial decrease in internal demand for a domestic product, and
   (b) this decrease in demand is due to an increase in imports consigned from other Member Territories as a result of the progressive reduction or the elimination of duties, charges and quantitative restrictions in accordance with Articles 4, 7 and 13, that Member Territory may, notwithstanding any other provisions of this Agreement –
      (i) limit those imports by means of quantitative restrictions to a rate not less than the rate of such imports during any period of twelve months which ended within twelve months of the date on which the restrictions come into force; the restrictions shall not be continued for a period longer than eighteen months, unless the Council, by majority decision, authorises their continuance for such further period and on such conditions as the Council considers appropriate; and

(ii) take such measures, either instead of or in addition to restriction of imports in accordance with sub-paragraph (i) of this paragraph, as the Council may, by majority decision, authorise.

2. In applying measures in accordance with paragraph 1 of this Article, a Member Territory shall give like treatment to imports consigned from all Member Territories.

3. A Member Territory applying restrictions in accordance with sub-paragraph (i) of this Article shall notify them to the Council, if possible before they come into force. The Council may at any time consider those restrictions and may, by majority vote make recommendations designed to moderate any damaging effect of those restrictions or to assist the Member State concerned to overcome its difficulties.

4. This article shall have effect until 31st December, 1970.

5. Before 1st January, 1971, if the Council considers that some provision similar to those in paragraphs 1 to 3 of this Article will be required thereafter, it may decide that such provisions shall have effect for any period after that date.

Article 23
Approximation of Incentive Legislation

1. A Tax of any kind in a Member Territory shall not, by the introduction or extension of incentive provisions at any time after this Agreement takes effect, be rendered liable to mitigation to any extent to which no tax of that kind elsewhere in the Area (if any) is rendered by incentive provisions previously introduced or extended, liable to mitigation.

2. A Member Territory which is considering the introduction or alteration of any incentive provisions shall, as far as may be practicable, notify the Council not less than thirty days before such introduction or alteration comes into effect, and shall consider any representations with respect thereto by other Member Territories, any of which may refer the matter to the Council under Article 26 if a breach of this Article is apprehended. Information received under this paragraph shall not be disclosed to any person outside the service of the Association or the Governments of Member Territories.

3. The Council may on its own initiative recommend to Member Territories proposals for the approximation of incentive provisions within the Area. Such proposals may include schemes for the increase or reduction of concessions within the Area consistently with the provisions of the foregoing Articles of this Agreement, and , may be implemented notwithstanding anything provided in paragraph 1 of this Article. The Council may take any appropriate measure provided for in this Agreement in furtherance of the objectives of this Article.

4. The Council may from time to time review the provisions of this Article and may decide to amend those provisions.

5. For the purposes of this Article –

"incentive provisions" means any legislation or practice providing for the granting of concessions for the purpose of encouraging the establishment or development of manufacturing industry;

"concessions" means any tax exemptions or remissions or refunds of tax;

"tax" includes any impost, duty or due.

Article 24
Economic and Financial Policies

Member Territories recognise that the economic and financial policies of each of them affect the economies of other Member Territories and intend to pursue those policies in a manner which serves to promote the objectives of the Association. They shall periodically exchange views on all aspects of those policies. The Council may make recommendations to Member Territories on matters relating to these policies to the extent necessary to ensure the attainment of the objectives of the smooth operation of the Association.

Article 25
Invisibles

Member Territories recognise the importance of invisible transactions and transfers for the proper functioning of the Association. The Council may decide on provisions with regard to such transactions and transfers as may prove desirable, having due regard to any international obligations to which Member Territories are subject.

Article 26
General Consultations and Complaints Procedure

1. If any Member Territory considers that any benefit conferred upon it by this Agreement or any objective of the Association is being or may be frustrated and if no satisfactory settlement is reached between the Member Territories concerned, any of those Member Territories may refer the matter to the Council.

2. The Council shall promptly, by majority vote, make arrangements for examining the matter. Such arrangements may include a reference to an examining committee constituted in accordance with Article 27. Before taking action under paragraph 3 of this Article, the Council shall so refer the matter at the request of any Member Territory concerned. Member Territories shall furnish all information which they can make available and shall lend their assistance to establish the facts.

3. When considering the matter, the Council shall have regard to whether it has been established that an obligation under this agreement has not been fulfilled and whether and to what extent any benefit conferred by this Agreement or any objective of the Association is being or may be frustrated. In the light of this consideration and of the report of any examining committee which may have been appointed, the Council may, by majority vote, make to any Member Territory such recommendations as it considers appropriate.

4. If a Member Territory does not or is unable to comply with a recommendation made in accordance with paragraph 3 of this Article and the Council finds, by majority vote, that an obligation under this Agreement has not been fulfilled, the Council may, by majority decision, authorise any Member Territory to suspend to the Member territory which has not complied with the recommendation the application of such obligations under this Agreement as the Council considers appropriate.

5. Any Member Territory may, at any time while the matter is under consideration, request the Council to authorise as a matter of urgency, interim measures to safeguard its position. If it is found by majority vote of the Council that the circumstances are sufficiently serious to justify interim action, and without prejudice to any action which it may subsequently take in accordance with the preceding paragraphs of this Article, the Council may, by majority decision, authorise a Member Territory to suspend its obligations under this Agreement to such an extent and for such a period as the Council considers appropriate.

Article 27
Examining Committees

The examining committees referred to in Article 26 shall consist of persons selected for their competence and integrity, who, in the performance of their duties, shall neither seek nor receive instructions from any Territory or from any authority or organisation other than the Association. They shall be appointed, on such terms and conditions as may be decided, by majority vote of the Council.

Article 28
The Council

1. It shall be the responsibility of the Council –
   (a) to exercise such powers and functions as are conferred upon it by this Agreement;
   (b) to supervise the application of this Agreement and keep its operation under review;
   (c) to consider whether further action should be taken by Member Territories in order to promote the attainment of the objectives of the Association and to facilitate the establishment of closer links with other countries, unions of countries or international organisations.

2. Each Member Territory shall be represented in the Council and shall have one vote.

3. The Council may decide to set up such organs, committees and other bodies as it considers necessary to assist it on accomplishing its tasks.

4. In exercising its responsibility under paragraph 1 of this Article, the Council may take decisions which shall be binding on all Member Territories and may make recommendations to Member Territories.

5. Decisions and recommendations of the Council shall be made by unanimous vote, except in so far as this Agreement provides otherwise. Decisions or recommendations shall be regarded as unanimous unless any Member Territory casts a negative vote. Decisions and recommendations which are to be made by majority vote require the affirmative vote of a majority of all Member Territories.

Article 29
Administrative Arrangements of the Association

1. The Council shall take decisions for the following purposes –

   (a) to lay down the Rules of Procedure of the Council and of any bodies of the Association, which may include provision that procedural questions may be decided by majority vote;

   (b) to make arrangements for the Secretariat services required by the association;

   (c) to establish the financial arrangements necessary for the administrative expenses of the Association and the procedure for establishing an annual budget.

2. The expenses of the Association shall be shared equally between the Member Territories.

Article 30
Relations with International Organisations

The Council, acting on behalf of the Association, shall seek to procure the establishment of such relationships with other international organisations as may facilitate the attainment of the objectives of the Association.

Article 31
Ratification Required for Effectiveness

1. This Agreement shall be subject to ratification by the Legislatures of all the Signatory Territories.

2. Instruments signifying such ratification shall be deposited with the Government of Antigua, which shall notify the other Signatory Territories, and, subject to the next following paragraph, this Agreement shall take effect as soon as all such instruments have been so deposited.

3. If prior to the ratification of this Agreement by any Signatory Territory that Territory indicates by notice to the Government of Antigua that difficulties have arisen in relation to carrying any provision of this Agreement into effect, the Agreement shall not take effect with respect to that Territory except in accordance with the terms of a supplementary agreement between all the signatory Territories providing for the resolution of such difficulties.

Article 32
Joining Association

1. Any Territory, though it be not a signatory hereto, may participate in this Agreement, subject to prior approval of the Council of the Territory's participation in this Agreement on terms and conditions decided by the Council. The instrument duly signifying the agreement of the Government of the Territory to its participation in this Agreement on the terms and conditions decided as aforesaid shall be deposited with the Government of Antigua which shall notify all other Member territories. This

Agreement shall have effect in relation to the participating Territory as, and from the time, indicated in the Council's decision.

2. The Council may seek to procure the creation of an association consisting of Member Territories and any other Territory, union of Territories, or international organisation, and embodying such reciprocal rights and obligations, common actions and special procedures as may be appropriate.

3. For the purpose of this Article, "Territory" includes a sovereign state internationally recognised.

Article 33
Withdrawal

Any Member Territory may withdraw from participation in this Agreement provided that the Government thereof gives twelve months' notice in writing to the Government of Antigua which shall notify the other Member Territories.

Article 34
Amendment

Except where provision for modification is made elsewhere in this agreement, including the Annexes to it, an amendment to the provisions of this Agreement shall be submitted to the Governments of Member Territories for acceptance if it is approved by decision of the Council, and it shall have effect provided it is accepted by all such Governments. Instruments of acceptance shall be deposited with the Government of Antigua which shall notify the other Member Territories.

Article 35
Acquisition of Sovereign Status

1. If a Member Territory, upon becoming a sovereign state recognised internationally, intimates its willingness to continue to participate in this Agreement, then, notwithstanding its having become such a state, this Agreement shall continue to have effect in relation to it.

2. For the purposes of paragraph 1 of this Article, any intimation thereunder shall be given by notice to the Government of Antigua, which shall notify all other Member Territories.

Article 36
Annexes

The annexes to this Agreement are an integral part of this Agreement.

Article 37
Legal Capacity, Privileges and Immunities

1. The legal capacity, privileges and immunities to be recognised and granted by the Member Territories in connection with the Association shall be laid down in a Protocol to this Agreement

2. The Council, acting on behalf of the Association, may conclude with the Government of the Territory in which the headquarters will be situated an agreement relating to the legal capacity and the privileges and immunities to be recognised and granted in connection with the Association.

IN WITNESS whereof the undersigned, duly authorised, have signed the present Agreement for the Governments of ANTIGUA, Barbados and British Guiana.

Done at Dickenson Bay, *Antigua*, this 15th day of December, 1965, in a single copy which shall be deposited with the Government of Antigua by which certified copies shall be transmitted to all other signatory and participating Territories.

ANNEX 'A'

1. Special arrangements are provided in this Annex for the progressive elimination by Member Territories of import duties on such products as are itemised according to the Standard International Trade Classification (original) as follows:

SITC Item No.	Description of Product
533-03	Prepared paints, enamels, lacquer and varnishes
552-02	Cleansing preparations without soap (detergents)
641-05	Bagasse board
821-01	Wood furniture
821-02	Metal furniture
821-09	Matresses
841-02	Underwear and shirts of knitted fabrics
841-04	Underwear, shirts and pajamas other than knitted

2. On and after each of the following dates a Member Territory may apply an import duty on any product eligible for Area tariff treatment as mentioned in paragraph 1 of this Annex at a level not exceeding the percentage of the basic duty specified against that date –

3. For the purpose of this Annex –

"basic duty" means, in respect of any product imported into a Member territory, the import duty applicable in that Territory on the 1st January,1966, to the imports of that product consigned from other Member Territories.

ANNEX 'B'

RULES REGARDING AREA ORIGIN FOR TARIFF PURPOSES

For the purpose of determining the origin of goods under Article 5 and for the application of that Article, the following Rules shall be applied:

Effective date hereof	100 per cent
1st January 1967	80 per cent
1st January 1968	60 per cent
1st January 1969	40 per cent
1st January 1970	20 per cent
1st January 1971	0 per cent

Rule 1 – Interpretative Provisions

1. In determining the place of production of marine products and goods produced therefrom, a vessel of a Member Territory shall be regarded as part of that Territory. In determining the place from which goods have been consigned, marine products taken from the sea or goods produced therefrom at sea shall be regarded as having been consigned from a Member Territory if they were taken by or produced in a vessel of a member territory and have been brought direct to the Area.

2. A vessel which is registered shall be registered as a vessel of the Member Territory in which it is registered.

3. "Materials" includes products, parts and components used in the production of the goods.

4. Energy, fuel, plant, machinery and tools used in the production of goods within the Area, and materials used in the maintenance of such plant, machinery and tools, shall be regarded as wholly produced within the Area when determining the origin of those goods.

5. "Produced" in sub-paragraph (c) of paragraph 1 of Article 5 and a "Process of production" in paragraph 2 of that Article include the application of any operation or process, with the exception of any operation or process which consists only of one or more of the following :-

(a) packing, wherever the packing materials may have been produced;

(b) splitting up into lots;

(c) sorting and grading;

(d) marking;

(e) putting up into sets.

6. The term "producer" includes a grower and a manufacturer and also a person who supplies his goods otherwise than be sale to another person and to whose order the last process in the course of the manufacturer of the goods is applied by that other person.

Rule 2 – Goods wholly produced within the Area

For the purposes of sub-paragraph (a) of paragraph 1 of Article 5, the following are among the products which shall be regarded as wholly produced within the Area:-

(a) mineral products extracted from the ground within the Area;

(b) vegetable products harvested within the Area;

(c) live animals born and raised within the Area;

(d) products obtained within the Area from live animals;

(e) products obtained by hunting or fishing conducted within the Area;

(f) marine products taken from the sea by a vessel of a Member Territory;

(g) used articles fit only for the recovery of materials, provided that they have been collected from users within the Area;

(h) scrap and waste resulting from manufacturing operations within the Area;

(i) goods produced within the Area exclusively from one or both of the following:-

(1) products within sub-paragraphs (a) to (h);

(2) materials containing no element imported from outside the Area or of undetermined origin.

Rule 3 – Application of Percentage Criterion

For the purposes of sub-paragraph (c) of paragraph 1 of article 5 –

(a) Any materials which meet the conditions specified in sub-paragraph (a) or (b) of paragraph 1 of that Article shall be regarded as containing no element imported from outside the Area.

(b) The value of any materials which can be identified as having been imported from outside the Area shall be their c.i.f. value accepted by the customs authorities on clearance for home use, or on temporary admission, at the time of last importation into the Member Territory where they were used in a process of production, less the amount of any transport costs incurred in transit through other Member Territories.

(c) If the value of any materials imported from outside the area cannot be determined in accordance with sub-paragraph (b) of this rule, their value shall be the earliest ascertainable price paid for them in the Member Territory where they were used in a process of production.

(d) If the origin of any materials cannot be determined, such materials shall be deemed to have been imported from outside the Area and their value shall be the earliest ascertainable price paid for them in the Member Territory where they were used in a process of production.

(e) The export price of the goods shall be the price paid or payable for them to the exporter in the Member Territory where the goods were produced, that price being adjusted, where necessary, to an f.o.b. or free at frontier basis in that Territory.

(f) The value under sub-paragraphs (b), (c) or (d) or the export price under sub-paragraph (e) of this Rule may be adjusted to correspond with the amount which would have been obtained on a sale in the open market between buyer and seller independent of each other. This amount shall also be taken to be the export price when the goods are not the subject of a sale.

Rule 4 – Unit of Qualification

1. Each article in a consignment shall be considered separately.

2. For the purposes of paragraph 1 of this Rule –

   (a) where the original Standard International Trade Classification specifies that a group, set or assembly of articles is to be classified within a single item, such a group, set or assembly shall be treated as one article;

   (b) tools, parts and accessories which are imported with an article, and the price of which is included in that of the article or for which no separate charge is made, shall be considered as forming a whole with the article, provided that they constitute the standard equipment customarily included on the sale of articles of that kind;

   (c) in cases not within sub-paragraphs (a) and (b), goods shall be treated as a single article if they are so treated for purposes of assessing customs duties by the importing Member Territory.

3. An assembled or disassembled article which is imported in more than one consignment because it is not feasible for transport or production reasons to import it in a single consignment shall, if the importer so requests, be treated as one article.

Rule 5 – Segregation of materials

1. For those products or industries where it would be impracticable for the producer physically to segregate materials of similar character but different origin used in the production of goods, such segregation may be replaced by an appropriate accounting system, which ensures that no more goods received Area tariff treatment than would have been the case if the producer had been able physically to segregate the materials.

2. Any such accounting system shall conform to such conditions as may be agreed upon by the Member Territories concerned in order to ensure that adequate control measures will be applied.

Rule 6 – Treatment of mixtures

1. In the case of mixtures, not being groups, sets or assemblies of separable articles dealt with under Rule 4, a Member Territory may refuse to accept as being of Area origin any product resulting from the mixing together of goods which would qualify as being of Area origin with goods which would not so qualify, if the characteristics of the products as a whole are not essentially different from the characteristics of the goods which have been mixed.

2. In the case of particular products where it is, however recognised by Member Territories concerned to be desirable to permit mixing of the kind described in the foregoing paragraph, such products shall be accepted as of Area origin in respect of such part thereof as may be shown to correspond to the quantity of goods of Area origin used in the mixing, subject to such conditions as may be agreed upon.

Rule 7 – Treatment of Packing

1. Where for purposes of assessing customs duties a Member Territory treats goods separately from their packing, it may also, in respect of its imports consigned from another Member Territory, determine separately the origin of such packing.

2. Where paragraph 1 of this Rule is not applied, packing shall be considered as forming a whole with the goods and no part of any packing required for their transport or storage shall be considered as having been imported from outside the Area, when determining the origin of the goods as a whole.

3. For the purpose of paragraph 2 of this Rule, packing with which goods are ordinarily sold by retail shall not be regarded as packing required for the transport or storage of goods.

Rule 8 – Documentary evidence

1. A claim that goods shall be accepted as eligible for Area tariff treatment shall be supported by appropriate documentary evidence of origin and consignment. The evidence of origin shall consist of either -

(a) a declaration of origin completed by the last producer of the goods within the Area, together with a supplementary declaration completed by the exporter in cases where the producer is not himself or by his agent the exporter of the goods; or

(b) a certificate given by a governmental authority or authorised body nominated by the exporting Member Territory and notified to the other Member Territories together with a supplementary declaration completed by the exporter of the goods.

These declarations, certificates and supplementary declarations shall be in such form as may be agreed by the Governments of all the signatory Territories, and a copy of such Agreement shall be deposited with the Government of Antigua by which certified copies shall be transmitted to all other signatory and participating Territories. The agreed forms shall, for the purposes of paragraph 5 of Article 5, be deemed to form part of this Annex.

2. The exporter may choose either of the forms of evidence referred to in paragraph 1 of this Rule. Nevertheless the authorities of the country of exportation may require for certain categories of goods that evidence of origin shall be furnished in the form indicated in sub-paragraph (b) of that paragraph.

3. In cases where a certificate of origin is to be supplied by a governmental authority or an authorised body under sub-paragraph (b) of paragraph 1 of this rule, that authority of body shall obtain a declaration as to the origin of the goods given by the last producer to the goods within the area. The governmental authority or the authorised body shall satisfy themselves as to the accuracy of the evidence provided, where necessary they shall require the production of additional information, and shall carry out any suitable check. If the authorities of the importing member Territory so require, a confidential indication of the producer of the goods shall be given.

4. Nominations of authorised bodies for the purpose of sub-paragraph (b) of paragraph 1 of this rule, may be withdrawn by the exporting Member Territory if the

need arises. Each member Territory shall retain, in regard to its imports, the right of refusing to accept certificates from any authorised body which is shown to have repeatedly issued certificates in an improper manner, but such action shall not be taken without adequate prior notification to the exporting Member territory on the grounds for dissatisfaction.

5. In cases where the member Territories concerned recognise that it is impracticable for the producer to make the declaration of origin specified in sub-paragraph (a) of paragraph 1 or in paragraph 3 of this Rule, the exporter may make that declaration in such for as those Member Territories may for the purpose specify.

6. The Council may decide that further or different provisions concerning evidence of origin or of consignment shall apply to particular categories of goods or classes of transactions.

Rule 9 – Verification of evidence of origin

1. The importing Member Territory may as necessary require further evidence to support any declaration or certificate of origin furnished under Rule 8.

2. The importing Member Territory shall not prevent the importer from taking delivery of the goods solely on the grounds that it requires such further evidence, but may require security for any duty or other charge which may be payable.

3. Where under paragraph 1 of this Rule, a Member Territory has required further evidence to be furnished, those concerned in another Member territory shall be free to produce it to a governmental authority or an authorised body of the latter Territory, who shall after thorough verification of the evidence, furnish an appropriate report to the importing Member Territory.

4. Where it is necessary to do so by reason of its legislation, a Member Territory may prescribe that requests by the authorities of an importing Member Territories for further evidence from those concerned in the Member Territory shall be addressed to a specified governmental authority, who shall after thorough verification of the evidence furnish an appropriate report to the importing Member Territory.

5. If the importing Member Territory wishes an investigation to be made into the accuracy of the evidence which it has received, it may make a request to that effect to the other Member Territory or Territories concerned.

6. Information obtained under the provisions of this Rule by the importing Member Territory shall be treated as confidential.

Rule 10 – Sanctions

1. Member Territories undertake to introduce legislation making such provision as may be necessary for penalties against persons who, in their territory, furnish or cause to be furnished a document which is untrue in a material particular in support of a claim in another Member territory that goods should be accepted as eligible for Area tariff treatment. The penalties applicable shall be similar to those applicable in cases of untrue declarations in regard to payment of duty on imports.

2. A Member territory may deal with the offence out of court, if it can be more appropriately dealt with by a compromise penalty or similar administrative procedure.

3. A Member Territory shall be under no obligation to institute or continue court proceedings, or action under paragraph 2 of this Rule –

(a) if it has not been requested to do so by the importing Member Territory to which the untrue claim was made; or

(b) if, on the evidence available, the proceedings would not be justified.

SCHEDULE

BASIC MATERIALS LIST

These materials may always be regarded as originating wholly within the "Area" when used in the state described in this List in a process of production within the "Area"

Note: The classification used in this List is in accordance with the original Standard International Trade Classification.

041-01	Wheat and spelt (including meslin) unmilled
043-01	Barley unmilled
045-01	Rye unmilled
045-02	Oats unmilled
045-09	Cereals unmilled (except rice and corn)
046-01	Semolina
048-02	Malt
051-04	Apples
051-05	Grapes
054-01	Potatoes (excluding sweet)
054-03	Hop cones fresh or dried
061-09	Lactose, glucose, maltose, caramel
072-01	Cocoa beans
075-01	Pepper
075-02	Spices, ginger, cinnamon, vanilla, nutmeg, mace
081-02	Pollard, sharps
221-05	Linseed
231-02	Synthetic rubbers and rubber substitutes
244-01	Cork, raw and waste (including natural cork in blocks and sheets)
251-01	Waste paper and old paper
261	Silk
262	Wool and other animal hair
264	Jute, including jute cuttings and waste
265	Vegetable fibres except cotton, jute and coir fibre
272-05	Salt, coarse and rock
272-06	Sulphur
272-11	Gypsum and plasters
272-16	Natural graphite
282-01	Iron and steel scrap
284-01	Non-ferrous metal scrap
291-09	Sponges, fish eggs (not for food) bristles, hair and their wastes

292-02	Natural gums, resins and balsam
292-09	Kapok
312-01	Crude petroleum
411-01	Oils from fish and marine animals
411-02	Linseed oil
412-11	Castor oil
413-02	Hydrogenated oils and fats
413-04	Waxes of animal or vegetable origin
511-01	Sulphuric acid
511-09	Calcium carbide, sodium pyrophosphate and white lead
512-09	Saccharine to be used for medicinal purposes only
531-01	Cola tar, dyestuffs and natural indigo
531-01	Dyeing extracts
532-02	Tanning extracts
532-03	Synthetic tanning materials
551-01	Essential vegetable oils
599-01	Synthetic plastic materials in blocks, sheets, rods, tubes, power and other primary forms
599-04	Casein, albumen, gelatin, glue
611	Leather
651	Textile yarn and thread
652	Cotton fabrics
653	Miscellaneous fabrics
655	Special textile fabrics
655-02	Hat bodies of wool felt and fur felt
655-06	Twine of cotton
655-06	Twine of hemp
671-01	Silver, unworked and partly worked
671-02	Platinum and other metal of platinum group, unworked and partly worked
672-03	Pearls worked
681-01	Pig iron and sponge iron (including iron and steel powder)
681-02	Ferro-allovs
681-03	Ingots, blooms, slabs, billets, sheet bars, and tinplate bars and equivalent primary forms
681-04	Angles, shapes, sections, bars
681-05	Universals, plates and sheets, uncoated
681-06	Hoop and strip (including tube strip and steel strip for springs) coated or not
681-13	Steel tubes and fittings, welded or drawn
681-14	Pipes and fittings, case whether gray iron or malleable iron
682-01	Copper and alloys not refined and refined unwrought
682-02	Copper and alloys of copper, worked (bars, rods, plates, sheets, wire, pipes, tubes, castings and forgings
683-01	Nickel and nickel alloys unwrought

683-02	Nickel and alloys of nickel, worked (bars, rods, plates, sheets, wire, pipes, tubes, castings and forgings
684-01	Aluminium and aluminium alloys unwrought
684-02	Aluminium and alloys of aluminium, worked (bars, rods, plates, sheets, wire, pipes, tubes, castings and forgings
685-01	Lead and lead alloys unwrought
685-02	Lead and alloys of lead, worked (bars, rods, plates, sheets, wire, pipes, tubes, castings and forgings
689-01	Non-ferrous base metals employed in metallurgy and their alloys, n.e.s. unwrought
689-02	Non-ferrous base metals employed in metallurgy and their alloys n.e.s. worked (bars, rods, sheets, wire, pipes, tubes, castings and forgings)
699-05	Expanded metal of iron and steel
699-06	Expanded metal of aluminium, copper and other non-ferrous base metals
899-05	Buttons and studs of all materials, except those of precious metals and precious stones.

ANNEX 'C'

1. Special arrangements are provided in this Annex for the progressive elimination by Member Territories of the effective protective element in revenue duties (hereinafter referred to as protective revenue duty) applied to such imported goods as are itemised under the Standard International Trade Classification (original) as follows :-

SITC Item No.	Description of Product
112-04	Rum

2. On and after each of the following dates, a Member Territory may apply a protective revenue duty on imports mentioned in paragraph 1 of this Annex at a level not exceeding the percentage of the basic protective duty specified against that date:-

Effective date hereof	**100 per cent**
1st January, 1967	40 per cent
1st January, 1968	30 per cent
1st January, 1969	20 per cent
1st January, 1970	10 per cent
1st January, 1971	0 per cent

3. Before the 1st of July, 1966, each Member Territory shall notify to the Council its basic protective duty on the product to which paragraph 2 of this Annex applies. Each Member Territory shall also notify to the Council the reductions which it intends to bring into effect in accordance with the said provisions.

4. For the purpose of this Annex –

"basic protective duty" means the protective revenue duty applicable in the Member Territory on the 1st January, 1966, to imports of rum consigned from other Member Territories.

ANNEX 'D'

1. Special arrangements are provided in this Annex for the progressive elimination by Barbados and British Guiana of quantitative restrictions on imports consigned from each other of the goods itemised under the Standard International Trade Classification (original) as follows :-

SITC Item No.	Description of Product
91-01	Margarine: animal, vegetable or mixed

2. Barbados and British Guiana shall eliminate all quantitative restrictions on imports consigned from each other of the goods mentioned in paragraph 1 of this Annex as soon as practicable and not later than 1st January, 1971.

3. On 1st January, 1967, Barbados and British Guiana shall each establish for imports to which paragraph 2 of this Annex applies, a quota of a size not less than 25 per cent above the basic Guianese quota.

4. On 1st January, 1968, and 1st January in each succeeding year, Barbados and British Guiana shall each increase the quota established in accordance with paragraph 3 of this Annex by not less than 25 per cent of an amount equivalent to the basic Guianese quota as already increased pursuant to this Annex.

5. Barbados and British Guiana shall each notify to the Council details of the quota established in accordance with the provisions of this Annex.

6. For the purpose of this Annex -

"Basic Guianese quota" means any quota or the total of any quotas which have been established by British Guiana in respect of imports in the calendar year 1964 of the goods consigned from Barbados.

ANNEX 'E'

List of Government aids referred to in paragraph 1 of Article 17:-

(a) currency retention schemes or any similar practices which involve a bonus on exports or re-exports;

(b) the provision by governments of direct subsidies to exporters;

(c) the remission, calculated in relation to exports, of direct taxes or social welfare charges on industrial or commercial enterprises;

(d) the exemption, respect of exported goods, from charges or taxes, other than charges in connection with importation or indirect taxes levied at one or several stages on the same goods if sold for internal consumption, or the payment, in respect of exported goods, of amounts exceeding those effectively levied at one or several stages on these goods in the form of indirect taxes or of charges in connection with importation or in both forms;

(e) in respect of deliveries by governments or governmental agencies of imported raw materials for export business on different terms than for domestic business, the charging of prices below world prices;

(f) in respect of government export credit guarantees, the charging of premiums at rates which are manifestly inadequate to cover the long-term operating coats and losses of the credit insurance institutions;

(g) the grant by governments (or special institutions controlled by governments) of export credit at rates below those which they have to pay in order to obtain the funds so employed;

(h) the Government bearing all or part of the costs incurred by exporters in obtaining credit.

SUPPLEMENTARY AGREEMENT UNDER ARTICLE 31(3) OF THE AGREEMENT FOR THE ESTABLISHMENT OF THE CARIBBEAN FREE TRADE ASSOCIATION SIGNED AT DICKINSON BAY, ANTIGUA ON 15 DECEMBER 1965 (1968)

Whereas an Agreement (hereinafter referred to as the "Principal Agreement") for the Establishment of a Caribbean Free Trade Area was signed at Dickenson Bay, Antigua, on behalf of the Governments of Antigua, Barbados and British Guiana on the 15th December, 1965;

And whereas it is provided by Paragraph 3 of Article 31 of the Principal Agreement that, in the event of the notification of difficulties in relation to carrying into effect any provision thereof to the Government of Antigua by any Signatory Territory prior to its ratification thereof, the Principal Agreement shall not take effect with respect to that Territory except in accordance with a supplementary agreement between all the Signatory Territories providing for the resolution of such difficulties;

And whereas a Supplementary Agreement required to be read and construed as one with the Principal Agreement has been signed on behalf of the Governments of Antigua, Barbados and Guiana in keeping with the provisions of paragraph 3 Article 31 of the Principal Agreement;

And whereas Guyana has not yet ratified the Principal Agreement and, acting under the provisions of paragraph 3 of Article 31 thereof has notified the Government of Antigua that certain difficulties have arisen in relation to carrying the Principal Agreement into effect in view of an undertaking given by the Signatories of the Principal Agreement, at the Fourth Conference of Heads of Government of Commonwealth Caribbean Countries, to conclude a further supplementary agreement on terms approved by post-Conference machinery to give effect to the resolutions adopted at the said Conference for the establishment of a wider Caribbean Free Trade Area;

And whereas it was so resolved at the said Conference that the Governments of the Commonwealth Caribbean Countries should approach the task of freeing trade by using the Principal Agreement as a basis with suitable modifications;

And whereas the terms of the further supplementary agreement to be concluded for the purpose of effecting such suitable modifications to the Principal Agreement as aforesaid have been approved by the post-Conference machinery hereinafter mentioned;

And whereas the Governments of Antigua, Barbados and Guyana are desirous of hereby concluding in conformity with the abovementioned provisions of the Principal Agreement such further supplementary agreement for its suitable modification and thereby providing for the resolution of the difficulties which have arisen, as aforesaid.

Now, therefore it is hereby agreed by the Governments of Antigua, Barbados and Guyana as follows:

Article 1
Substitution of New Preamble to Principal Agreement

All the words appearing in the Principal Agreement before Article 1 thereof are hereby deleted and the following substituted therefor:

The Governments of the Signatory Territories -

Sharing a common determination to fulfil within the shortest possible time the hopes and aspirations of the peoples of the Caribbean Territories for full employment and improve living standards;

Conscious that these goals can most rapidly be attained by the optimum use of available human and other resources and by accelerated, co-ordination and sustained economic development;

Aware that the broadening by domestic markets through the Elimination of barriers to trade between the Territories is a pre-requisite to such development;

Convinced that such elimination of barriers to trade can best be achieved by the immediate establishment of a free trade area which will contribute to this ultimate creation of a viable economic community of Caribbean Territories;

Mindful of the difference levels of development attained by the Territories of the Caribbean;

Have agreed as follows:

Article 2
Amendment of Provisions of Principal Agreement

There are hereby made, to the provisions of the Principal Agreement referred to in the first column of the First Schedule hereto, the amendments specified opposite such references, respectively in the second column of the said Schedule.

Article 3
Substitution of New Article 25 of Principal Agreement

Article 25 of the Principal Agreement is hereby deleted and the following substituted therefor –

Article 25
Invisibles

The Council shall as soon as practicable, having due regard to international obligations, decide the treatment to be given to invisible transactions and transfers amongst Member Territories with a view to promoting the objectives of this Agreement.

Article 4
Insertion of New Articles 38 and 39 in Principal Agreement

The following Articles are hereby inserted in the Principal Agreement after Article 37 thereof –

Article 38
Protection of Guyanese Petroleum Products

1. Notwithstanding anything in this Agreement, any quantitative restrictions within the meaning of Article 13 may, during any period for which the Government of Guyana is party to any protective Agreement in that behalf relating to a petroleum product produced in Guyana, be applied on imports into Guyana of that petroleum product form any other part of the Area:

Provided that no such restriction shall be so applied on imports of any petroleum product, other than Bunker C, asphalt or road oil, during any year except with a view to preventing the importation of that petroleum product into Guyana to any extent in excess of –

(a) one third of such amount of that petroleum product as is reasonably considered by the Government of Guyana to be marketable in Guyana during such year; or

(b) the difference between such amount of that petroleum product as is reasonably considered by the Government of Guyana to be marketable in Guyana during such year and any lesser amount of that petroleum product which is reasonably considered by the said Government to be producible in Guyana during such year, whichever is more.

2. During any period first hereinbefore in this Article referred to in connection with a petroleum product produced in Guyana, customs duties shall, at rates not lower than those in force when this agreement takes effect, be applicable to any permitted imports into Guyana of that petroleum product from outside the area.

3. Not later than –

(a) the commencement, during any year, of period mentioned in paragraph 2 of this Article;

(b) the commencement, during any such period, of any year, Guyana shall notify to the Council the Amounts mentioned in paragraph (b) of the proviso to paragraph 1 of this Article in relation to that year and shall, at the request of any Member Territory, inform the Council in strictest confidence of the reasons of the Government of Guyana for arriving at such amounts.

4. In this Article, "the petroleum product" includes any like or substitutable petroleum product.

5. This Article shall not have effect for longer than 15 years from the Commencement of a period mentioned in paragraph 2 of this Article.

Article 39
Promotion of Industrial Development in Less Developed Territories

Upon any application made in that behalf by the less developed Territories as defined in Annex B, the Council may, if necessary as a temporary measure in order to promote the development an industry in any of those Territories, authorise by majority decision such Territories to suspend Area tariff treatment of any description of Imports eligible therefor on grounds of production in other Member Territories, any of whom may, during the period for which such authorisation is in force, suspend Area tariff treatment of the like description of imports eligible therefor on grounds of production in the less-developed Territories.

Article 5
Variation of Annexes to Principal Agreement

The Principal Agreement is hereby amended –

(a) by deleting Annex C and substituting for the letter "B" in the caption to Annex B, the letter "C" ;

(b) by deleting from the Basic Materials List, which forms the Schedule to the last-mentioned Annex, the items set out in Part 1 of the second schedule hereto, and by inserting the word "EX" immediately before the following items numbers in that list, that is to say, 291-09, 312-01, 511-09, 655-06 (wherever it appears), 699-05 and 699-06;

(c) (in substituting for every such classification of materials as appears in the said Basic Materials List against any item number mentioned in the first Column of Part II of the Second Schedule hereto The classification set out opposite in the second column of that Part:

(d) by substituting for Annex A and Annex D the annexes set out in the Third Schedule and the Fourth Schedule hereto, respectively, and inserting (with appropriate caption)to Annex A to the Principal agreement the Resolution set out in the Fifth Schedule hereto;

(e) by substituting for the letter "E" in the caption to Annex E the letter "F" and insert as Annex E to the Principal Agreement the annex set out in the Sixth Schedule hereto.

Article 6
Schedules

The Schedules of this Agreement are an integral part of this Agreement.

Article 7
Rescission of Previous Supplementary Agreement

The Supplementary Agreement heretofore made between the parties to this Agreement and required to be read and construed as one with the Principal Agreement is hereby rescinded.

Article 8
Construction of this Agreement

This Agreement shall be read and construed as one with the Principal Agreement.

IN WITNESS whereof the undersigned, duly authorised, have signed the present Agreement for the Governments of Antigua, Barbados and Guyana.

Done in a single copy which shall be deposited with the Government of Antigua by which certified copies shall be transmitted to all other Signatory and participating Territories.

FIRST SCHEDULE

FIRST COLUMN	SECOND COLUMN
Article 1	(i) Delete the words and figures "or paragraphs 1 and 3" (ii) Insert immediately after the figures "32" the word 'and, for the purposes hereof, "Territories" includes sovereign states inter- nationally recognised' (iii) Substitute for the words "the Council may set up" the words "are mentioned in Paragraph 3 of article 28"Article 2
Article 2	(i) Substitute for paragraph (c) the following – "(c) to encourage the balanced progressive development of the economies of the Area in keeping with paragraphs 3 to 10 of the Resolution adopted at the Fourth Conference of the Heads of Government of Common-wealth Caribbean Countries as set out in Annex A;" (ii) Substitute for the full stop at the end of paragraph (d) a semicolon and add the following paragraph – "(c) to ensure that the benefits of free trade are equitably distributed among the Member Territories."
Article 3	(i) Insert the figure "1" and a full stop, before the word "The" (ii) Substitute for the words "it is signed" the words "the effective date hereof and notified to the Council." (iii) Substitute for the full stop at the end of the proviso a colon and add the following proviso – "Provided further that, in case of any non-observance of any provisions of this Agreement on the part of a Member

FIRST COLUMN	SECOND COLUMN
Article 3 (cont'd)	Territory which considers that it would enjoy any benefit under this Agreement but for such exemption may if no satisfactory settlement is reached between the Member territories concerned, refer the matter to the Council, which may, by majority decision, authorise any Member Territory to suspend to the first mentioned Member Territory the application of such obligations under this Agreement as the Council considers meet, due regard being had to the report of such committee (if any) as may have been constituted in accordance with Article 27 to examine the matter, and paragraphs 2 and 5 of Article 26 shall apply mutatis mutandis in the case of any reference under this proviso as they apply in the case of a reference under paragraph 1 of Article 26." (iv) Add the following as paragraph 2, 3, and 4 of Article 3 – '2. All such agreements shall be registered in such form as the Council shall decide and by way of such service in that behalf as shall be arranged pursuant to sub-paragraph (b) of paragraph 1 of Article 29. 3. The Council shall annually review the observance by Parties to this Agreement of the first proviso to paragraph 1 of this Article and may from time to time, by majority vote, recommend to any of them the taking of any steps for the purposes of that proviso. 4. For the purposes of this Article, "agreements" means any agreements concluded by instruments or any arrangements made in writing which the Council decides, by majority vote, constitute agreements for those purposes, but does not include any agreement or arrangements entered into by a Party hereto, not being the Government of Grenada, in respect of which negotiations commenced after the 22nd February, 1968'
Article 4	(i) Substitute for the letter "A" wherever it appears after the word "Annex", the Letter "B" (ii) Substitute for the full stop at the end of the paragraph 3 a semicolon and add to that paragraph the words "and nothing in paragraph 2 of this Article shall be construed to exclude from the application of paragraph 1 of this Article any tax or surtax of customs on any Product neither the like of which, nor a competitive substitute for which, is produced in the importing Member territory, or to extend such application to non-discriminatory internal charges on any such product."

FIRST COLUMN	SECOND COLUMN
Article 4 (cont'd)	(iii) Add the following as paragraph 4 of Article 4- 4. For the purposes of paragraph 3 of this Article (a) "non-discriminatory" means non-discriminatory as between goods eligible for Area tariff treatment as aforesaid and goods not so eligible; (b) a charge shall not be deemed other than internal by reason only that it is collected at the time and place of importation.
Article 5	(i) Substitute for the letter "B", wherever it appears after the word "Annex", the letter "C" (ii) Add the following paragraph – "Nothing in this Agreement shall require a Member Territory to accept as eligible for Area tariff treatment any imports consigned from another Member Territory and consisting of, or manufactured from, oils and fats as defined by clause 2 of the Oils and Fats Agreement, or any of such oils or fats, where the Government of one of such Territories is a part to the Oils and Fats Agreement, and the Government of the other of such Territories is not a party to the Agreement, being the Agreement made on the 26th January, 1967, between the Governments of Barbados, Dominica, Grenada, Guyana, St. Lucia, St. Vincent and Trinidad and Tobago or any agreement amending or replacing the same."
Article 7	Substitute for the letter "C", where ever it appears after the word "Annex", the letter "D"
Article 8	Substitute for the letter "B" after the word "Annex" in sub-paragraph (d) the letter "C"
Article 9	Add the following paragraphs – "4 Nothing in this Article shall preclude a Member Territory from applying to any commodity listed in Annex E, within ten years from the effective date of this Agreement, export duty not exceeding that applicable by the Member Territory to such commodity immediately before the effective date of this Agreement.

FIRST COLUMN	SECOND COLUMN
Article 9 (cont'd)	5. Any Member Territory which, pursuant to Paragraph 4 of this Article, applies or continues to apply export duty to any commodity listed in Annex E shall notify the Council of every commodity on which export duty is applicable and the rate of such duty. The Council shall keep under review the question of such expert duties and may at any time by majority vote make recommendations designed to moderate any damaging effect of those duties."
Article 10	Substitute for the letters and words "A, B and C" the letters and words "B, C and D"
Article 13	(i) Substitute for the words "the provisions of Annex D' in paragraph 1 the words "anything to the contrary in any agricultural marketing arrangements made pursuant to paragraph 6 of Annex A and laid down in a Protocol between the Parties of this Agreement." (ii) Delete the words "and Annex D" in Paragraph 2.
Article 14 Paragraph 1	Substitute for the word "A" the words "Subject is mentioned in paragraph 1 of Article 13, a."
Article 17	(i) Substitute for the letter "E", wherever it appears after the word "Annex", the letter "F" (ii) Add the following paragraph – "4 . The provisions of this Article – (a) shall not apply in respect of inter-territorial trade within the Area in any agricultural products until such time as Member Territories shall agree upon the regional policy with respect to the production and marketing, including the subsidization, of agricultural products; (b) exclusive of sub-paragraph (a) of Paragraph 1 and paragraph 3, shall not apply in respect of inter-territorial trade within the Area in any manufactured goods until Member Territories have agreed upon a regional policy with respect to incentives to industry."

FIRST COLUMN	SECOND COLUMN
Article 19 Paragraph 3	Substitute for the ordinal, word and figures "31st December, 1967" in sub-paragraph (a) the ordinal Word and figure 30th April, 1970"
Article 20	Substitute for the ordinal, word and figures 31st December, 1967" the ordinal, word and figures "30th April, 1970."
Article 22	(i) Substitute for the ordinal, word and figures 31st December, 1970" in paragraph 4 the ordinal, word and figures 30th April, 1973". (ii) Substitute for the ordinal, word and figures "1st January, 1971" in paragraph 5 the ordinal, word and figures1st May, 1973".
Article 23	(i) Substitute for the full stop at the end of Paragraph 1 a colon and add to that paragraph the following proviso – "Provided that, in resolving any question whether any breach by a Member Territory of its obligations for the purposes of this Article is to be apprehended or has resulted from the introduction or extension of any incentive provisions, the Council shall take into account the overall level and structure of taxation and the general economic circumstances in that Member Territory as compared with other Member Territories." (ii) Renumber paragraphs 2, 3, 4 and 5 as paragraph 3, 4, 5 and 6, respectively, and insert the following as paragraph 2 – "2. This Council may, by majority decision, authorise any Member Territory to withhold, from imports of any products in relation to the manufacture of which it has been established to the satisfaction of a majority of the Council that any such breach by another Member Territory has resulted as aforesaid, treatment the benefit whereof is applicable in conformity with any provisions of this Agreement to such imports."
Article 28	(i) Substitute for paragraph 5 the following – "3. The Commonwealth Caribbean Regional Secretariat shall be the principal administrative organ of the Association and theCouncil may entrust it, and may set up other organs, committees and bodies and entrust them with such functions as the Council considers necessary to assist in

FIRST COLUMN	SECOND COLUMN
Article 28 (cont'd)	Accomplishing its tasks. Decisions of the Council pursuant to this paragraph shall be made by majority vote." (ii) Substitute for all the words appearing in paragraph 5 after the words "negative vote." the words "A decision or recommendation of the Council pursuant to any such provision as aforesaid requires the affirmative votes of not less than two-thirds of all Member Territories, and reference in any such provision to a majority shall, in relation to the Council, be construed accordingly." (iii) Add the following paragraph – "6. The Council may, by its decision to confer any authority under this Agreement, impose conditions to which such authority shall be subject."
Article 29 Paragraph 2	Substitute for the words "equally between Member Territories" the words "between Member Territories in conformity with the appropriate basis of Territorial contributions to the annual budget of the Commonwealth Regional Secretariat, approved at the Conference of Ministers of Trade held in Guyana on 21st and 22nd February 1968, or in such other member as the Council may decide"
Article 31	(i) Insert after the words "as soon as" in paragraph 2 the words "the number of Signatory Territories has been ascertained consistently with paragraphs 4 and 5 of this Article and" (ii) Add the following paragraphs – "4. Any Commonwealth Caribbean Country by whose Government on instrument signifying its endorsement of the Resolution set out in Annex A has been deposited with the Government of Antigua shall be deemed for the purposes of the Agreement to be a Signatory Territory as from the date of such deposit, which shall be notified to the other Signatory Territories by the Government of Antigua.

FIRST COLUMN	SECOND COLUMN
Article 31 (cont'd)	5. Notwithstanding anything to the contrary in this Agreement, the preceding paragraph shall not apply on or after the 1st May, 1968, to a Commonwealth Caribbean Country unless, before that date, there has been deposited an instrument signifying ratification by its Legislature of this Agreement, pursuant to the deposit by its Government of an instrument of endorsement, in accordance with this Article." (i) Insert before the word "seek" in paragraph 2 the words, "pursuant to any decision thereof in that behalf." (iii) Delete paragraph 3.

SECOND SCHEDULE

Article 5(b) and (c)

PART I

061-02	
211-01	Waste paper and old paper
271-05	Salt, course and rock
272-11	Gypsum and plasters
282-01	Iron and steel scrap
511-11	Sulphuric acid
512-09	Saccharine to be used for medicinal purposes only
655	Special textile fabrics
655-02	Mat bodies of wool felt and fur felt

PART II

Column 1	*Column II*
072-01	Cocoa beans (except flavoured cocoa)
072-01	Pepper (except sweet peppers, unground) and pimento whether unground, ground or otherwise prepared.
075-02	Spices other than ginger, cinnamon, nutmeg and mace.

252-02	Natural gums,……
551-01	Essential vegetable oils (except lime, bay, Pimento, nutmeg and orange oils)
611	Leather with the exception of sole leather
653	Textile fabrics, other than cotton fabrics
581-03	Ingots, blooms, slabs, billets, sheet…….. and tin plate bars of iron and steel and equivalent primary forms
681-04	Iron and Steel bars
681-05	Universal, plates and sheets of iron and steel uncoated.
681-06	Hoop and strip of iron and steel (including tube strips and steel strip for springs) coated or not

THIRD SCHEDULE

Article 5(d)

ANNEX 'B'

1. Special arrangements are provided in this Annex for the progressive elimination by less-developed Territories, within ten years from the effective date of this Agreement in conformity with paragraph,4, of import duties on such products as are itemised according to the Standard International Trade Classification (original) as follows:-

SITS Item No.	Description of Product
Ex 048-04	Biscuits, sweetened or unsweetened.
Ex 657-03	Coir products, mats and matting
Ex 899-13	Brushes made with plastic bristles, Except paint brushes and artists' brushes

2. Special arrangements are provided in this Annex for the progressive elimination by less-developed Territories within ten years from the effective date of this Agreement in conformity with paragraph 4, and by other Member Territories within five years from that date in conformity with paragraph 3, of import duties on such products as are itemised according to the Standard International trade Classification (original)as follows:-

SITC Item No.	Description of Product
C53	Fruits preserved and fruit preparations, Except frozen citrus concentrates and Citrus segments
121-01	Tobacco manufactured (including scrap Tobacco, and tobacco stems) Manufactured tobacco except cigars.

122	Prepared paints, enamels, lacquer and Varnishes. Ships' bottom compositions, Putty and all others (including driers).
Ex 552-02	Cleansing preparations without soap detergents).
Ex 632	Crates and wooden containers.
Ex 721-04	Radio and Television sets.
Ex 721-19	Accumulators.
Ex 821	Wood furniture, metal furniture.
Ex 821-09	Mattresses.
Ex 841	Underwear, shirts and nightwear of fabrics, other than knitted.
Ex 851-01	Slippers and house footwear, wholly or mainly of leather.
851-02	Footwear wholly or mainly of leather

.

3. On and after each of the following dates, a Member Territory may apply an import duty on any product eligible for Area tariffs treatment, being a product the duty on which is to be eliminate by the Member Territory within five years as mentioned in the foregoing provisions of this Annex, at a level not exceeding the percentage of the basic duty specified against that date:-

Effective date hereof	**100 per cent**
1st May, 1969	80 per cent
1st May, 1970	60 per cent
1st May, 1971	40 per cent
1st May, 1972	20 per cent
1st May, l973	0 per cent

4. On an after each of the following dates, a less-developed Territory may apply import duty on any product eligible for Area tariff treatment, being a product the duty on which is to be eliminated by the Territory within ten years as mentioned in the foregoing provisions of this Annex, at a level no exceeding the percentage of the basic duty specified against that date:-

Effective date hereof	**100 per cent**
1st May, 1973	53 per cent
1st May, 178	0 per cent

5. Notwithstanding anything hereinbefore provided, special arrangements for the progressive elimination by Member Territories of import duty on any product listed in this Annex shall, in case of its being produced in any such Member Territory at the effective date hereof, come into operation on that date and, in any other case, shall come into operation in so far as applicable, if and when such production commences in any of the Member Territories to which any of such arrangements have for the time being reference and the percentages of basic duty which are thence forth applicable and prescribed by this Annex in relation to that product may be applied thereto accordingly.

6. Any less-developed Territory which considers that serious injury may be done to an industry in such Territory by the total elimination of import duty on any product as required by paragraph 4 may refer the matter to this Council, which may, by majority decision, authorise the continued application by any less-developed territory of import duty on such product after the 30th April, 1978, due regard being had to the report of such committee (if any) as may have been constituted in accordance with Article 27 to examine the matter, and paragraph 2 and 5 of Article 26 shall apply mutatis mutandis in the case of a reference under this paragraph as they apply in the case of a reference by a Member Territory to the Council under that Article.

7. For the purposes of this Annex –

(a) "basic duty" means, in respect of any product imported into a Member Territory, the import duty applicable in this Territory immediately before the effective date hereof, to importer of such a product form the other Territories becoming Member of the Association;

(b) "paragraph" means a paragraph of this Annex;

(c) "less-developed Territories" means Member Territories including neither Barbados, Guyana, Jamaica nor Trinidad and Tobago.

8. Nothing in this Agreement shall preclude any agreement made between the less- developed Territories, and notified by them to the Council, whereby their import duties on any of the products listed in this Annex and imported form the less-developed Territories shall at any time be eliminated by all the less-developed territories or reduced by not less than such percentage of their respective basic duties as may be so agreed between them, notwithstanding that no corresponding elimination or reduction be made by them in respect of such products imported from the other Member Territories except in so far as it may be necessary so to do for the purposes of compliance with this Annex.

FOURTH SCHEDULE

Article 5(d)

ANNEX 'D'

1. Special arrangements are provided in this Annex for the progressive elimination by Member Territories, within five years from the effective date of this Agreement in conformity with paragraph 3, of the effective protective element in revenue duties (hereinafter referred to as protective revenue duty) applied to such imported goods as are itemised according to the Standard International Trade Classification (original) as follows:-

SITC Item No.	Description of Product
112-03	Beer, stout and ale.
112-04	Gin, vodka and whisky.
313	Petroleum Products.

2. Special arrangements are provided in this Annex for the progressive elimination by less-developed Territories within ten years from the effective date of this Agreement in conformity with paragraph 4 and by other Member Territories within five years from that date in conformity with paragraph 3, of protective revenue duty applied to imported goods itemised under the Standard International Trade Classification (original) as follows:-

SITC Item No.	Description of Product
112-4	Rum

3. On and after each of the following dates, a Member Territory may apply, to any imported goods the protective revenue duty on which is to be eliminated by the Member Territory within five years as mentioned in the foregoing provisions of this Annex, a protective revenue duty at a level not exceeding the percentage of the basic protective revenue duty specified against that date:-

Effective date hereof	**100 per cent**
1st May, 1969	40 per cent
1st May, 1970	30 per cent
1st May, 1971	20 per cent
1st May, 1972	10 per cent
1st May, 1973	0 per cent

4. On and after each of the following dates, a less-developed territory may apply, to any imported goods the protective revenue duty on which is to be eliminated by the Territory within ten years as mentioned in the foregoing provisions of this Annex, a protective revenue duty at a level not exceeding the percentage of the basic protective revenue duty specified against that date:-

Effective date here of	**100 per cent**
1st May, 1973	50 per cent
1st May, 1978	0 per cent

5. Before the 1st November, 1968, every Member Territory shall notify to the Council its basic protective revenue duty on each product to which the foregoing provisions of this Annex apply. Every Member Territory shall also notify to the Council the reductions which it intends to bring into effect in accordance with the said provisions.

6. Any less-developed Territory which considers that serious injury may be done to an industry in such Territory by the total elimination of protective revenue duty on any product as required by paragraph 4 may refer the matter to the Council, which may, by majority decision, authorise the continued application by any less-developed Territory of protective revenue duty on such product after the 30th April, 1978, due regard being had to the report of such committee (if any) as may have been constituted in accordance with Article 27 to examine the matter, and paragraphs 2 and 5 of Article 26 shall apply mutatis mutandis in the case of any reference under this paragraph as they apply in the case of a reference by a Member Territory to the Council under that Article.

7. For the purposes of this Annex -

(a) the basic protective revenue duty, in respect of any product imported into a Member Territory, shall be the protective revenue duty applicable in

that Territory, immediately before the effective date hereof, to imports of such a product from the other Territories becoming Members of the Association;

(b) "less-developed Territories" shall have the meaning assigned thereto by paragraph 7 of Annex `B';

(c) "paragraph" means a paragraph of this Annex.

8. Notwithstanding anything hereinbefore provided, the foregoing provisions of this Annex shall, in respect of any imported goods itemised as aforesaid, apply to an importing Member Territory wherein neither like goods nor competitive substitutes therefor are produced subject to the following modification, that is to say, the substitution for every reference in those provisions to protective revenue duty of a reference to import duty within the meaning of Article 4.

9. Nothing in this Agreement shall preclude any agreement made between the less-developed Territories, and notified by them to the Council whereby their protective revenue duties on any of the products listed in this Annex and imported from the less-developed Territories shall at any time be eliminated by all the less-developed Territories or reduced by not less than such percentage of their respective basic protective revenue duties as may be so agreed between them, notwithstanding that no corresponding elimination or reduction be made by them in respect of such products imported form the other Member Territories except in so far as it may be necessary so to do for the purpose of compliance with this Annex.

FIFTH SCHEDULE

Article 5(d)

RESOLUTION ADOPTED BY FOURTH HEADS OF GOVERNMENT CONFERENCE ON REGIONAL INTEGRATION

1. Free Trade should be introduced with respect to all intra-Commonwealth Caribbean trade by 1st May 1968, subject to a list of reserved commodities which would be freed within a five-year period for the more-developed countries and within a ten-year period for the less-developed countries; subject to special provisions for appeal by a less-developed Territory to the governing body of the Free Trade Area for further extension in any case where serious injury may be done to a territorial industry.

2. The Governments should approach the task of freeing of trade, by using the CARIFTA Agreement as a basis with suitable modifications.

3. The Commonwealth Caribbean Countries shall immediately take steps to initiate studies to determine whether the objective of achieving trade expansion to the mutual benefit of the member states can be facilitated by the establishment of a common external tariff in whole or in part.

4. The principle should be accepted that certain industries may require for their economic operation the whole or a large part of the entire regional market protected by a common external tariff or other suitable instrument. The location of such industries and the criteria to be applied in respect thereof, as well as the implementation of the principle accepted above, should be the subject of immediate study – such study to have special regard to the situation of the relatively less-developed countries.

5. Subject to existing commitments a regional policy of incentives to industry should be adopted as early as possible on the basis of studies mentioned in Resolution 7 below, bearing in mind the special needs of the less-developed countries for preferential treatment, such as soft loans.

6. Marketing agreements for an agreed list of agricultural commodities should be sought to come into effect at the same time as the commencement of free trade and the territories in the region should examine the possibility of restricting imports from extra-regional sources of agricultural products that are produced within the region and are available for satisfying regional demand.

7. The principle of seeking to establishing more industries in the less-developed countries should be accepted and the ECLA Secretariat should be asked to undertake feasibility studies immediately with a view to identifying industries which should be located in the less-developed countries and to devising special measures for securing the establishment of such industries in these countries. These studies should be submitted to governments no later than one year after the commencement of free trade.

8. The Commonwealth Caribbean Countries should endeavour to maintain and improve regional carriers to facilitate the movement of goods and services within the region.

9. The Commonwealth Caribbean Countries should agree to negotiate with the Shipping Conference the rationalisation freight rates on extra-regional traffic.

10. The ECLA Secretariat for the Caribbean should be asked to undertake a number of studies, for example, studies on the harmonising of incentives and the feasibility of establishing certain regional industries.

11. A committee of Ministers should be set up immediately, functioning as a sub-committee of the Heads of Government Conference, with general responsibility for the establishment of Free Trade Area.

SIXTH SCHEDULE

Article 5(e)

ANNEX 'E'

copra	nutmegs and mace	arrowroot
sugar	cocoa	eddoes
coconut oil	sweet potatoes	peanuts
		bauxite

SUPPLEMENTARY AGREEMENT NO. 2 TO THE AGREEMENT FOR THE ESTABLISHMENT OF THE CARIBBEAN FREE TRADE ASSOCIATION (1965)

Whereas an Agreement (hereinafter referred to as the "Principal Agreement") for the establishment of a Caribbean Free trade Area (hereinafter called "the Area") was signed at Dickenson Bay, Antigua, on behalf of the Governments of Antigua, Barbados and British Guiana on the 15th December, 1965;

And whereas it is provided by paragraph (3) of Article 31 of the Principal Agreement that, in the event of the notification of difficulties in relation to carrying into effect any provision thereof to the Government of Antigua by any Signatory Territory prior to its ratification thereof, the Principal Agreement shall not take effect except in accordance with a Supplementary Agreement between all the Signatory Territories providing for the resolution of such difficulties;

And whereas the Government of Guyana, which comprises the territory formerly comprised in British Guiana, has not yet ratified the Principal Agreement and has notified the Government of Antigua that difficulties have arisen in relation to carrying the provisions of the Principal Agreement into effect in so far as they relate to the importation into Guyana of petroleum products;

And whereas the Governments of Antigua, Barbados and Guyana are desirous of hereby providing for the resolution the said difficulties, and agreeing as to the construction of Article 4 of the Principal Agreement, and that the Principal Agreement should, upon deposit of instruments signifying ratification by them under Article 31 thereof, take effect in accordance herewith:

Now, therefore, it is hereby agreed by the governments of Antigua, Barbados and Guyana as follows:-

Article 1
Protection of Guyanese Petroleum Products

1. Notwithstanding anything in the Principal Agreement, any quantitative restriction within the meaning of Article 13 thereof may, during any period for which the Government of Guyana is a party to any protective agreement in that behalf relating to a petroleum product produced in Guyana, be applied on imports into Guyana of that petroleum product from any part of the Area:

Provided that no such restriction shall be so applied on imports of any petroleum product, other than Bunker C, asphalt or road oil, during any year except with a view to preventing the importation of that petroleum product into Guyana to any extent in excess of –

(a) one third of such amount of that petroleum product as is reasonably considered by the Government of Guyana to be marketable in Guyana during such year; or

(b) the difference between such amount of that petroleum of Guyana to be marketable in Guyana during such year and any lesser amount of that petroleum product which is reasonably considered by the said Government to be producible in Guyana during such year, whichever is more.

2. During any period first hereinbefore in this Article referred to in connection with a petroleum produced in Guyana, customs duties shall, at rates not lower than those in force when the Prinicipal Agreement takes effect, be applicable to any permitted imports into Guyana of that petroleum product from outside the Area.

3. Not later than –

(a) the commencement, during any year, of any period mentioned in paragraph 2 of this Article;

(b) the commencement, during any such period, of any year, Guyana shall notify to the Council of the Caribbean Free Trade Association the amounts mentioned in paragraph (b) of the proviso to paragraph 1 of this Article in relation to that year and shall, at the request of any member of the Association, inform the Council in strictest confidence of the reasons of the Government of Guyana for arriving at such amounts.

4. In this Article "that petroleum product" includes any like of substitute petroleum product.

5. This Article shall not have effect for longer than 15 years from the commencement of a period mentioned in paragraph 2 of this Article.

Article 2
Construction of Article 4 of Principal Agreement

Nothing in paragraph 2 of Article 4 of the Principal Agreement shall be construed to exclude from the application of paragraph 1 of that Article any tax or surtax of customs on goods the like of which, or substitutes for which, are not produced in the importing Member Territory, or to extend such application to internal charges on any such goods.

Article 3
Construction of this Agreement

This Agreement shall be read and construed as one with the Principal Agreement.

IN WITNESS whereof the undersigned, duly authorised, have signed the present Agreement for the Governments of Antigua, Barbados and Guyana.

Done in a single copy which shall be deposited with the Government of Antigua by which certified copies shall be transmitted to all other signatory and participating Territories.

5

THE COUNCIL OF LEGAL EDUCATION

The Council of Legal Education was designed to establish a system of legal education appropriate and relevant for the Commonwealth Caribbean region. Before the establishment of the Council persons enjoying a right of audience in regional courts were either trained as barristers at the Inns of Court in the United Kingdom or articled to local solicitors prior to taking the examinations of the English Law Society. Possession of a degree in law was not a requirement for qualification as a barrister or solicitor. In 1963, the Council of the University of the West Indies appointed a Committee under the chairmanship of the Hon. Sir Hugh Wooding 'to consider and make recommendations to Council on the assistance which the University of the West Indies ... should provide for the training in the West Indies of legal practitioners with a view to ensuring their admission to practice and the right to audience before the Courts of the West Indies'.

The recommendations of the Wooding Committee which commended themselves to the Council are reflected in the preamble of the Agreement establishing the Council of Legal Education. The preambular paragraphs expressed the determination to establish a scheme for legal education and training suited to the needs of the Caribbean and the conviction that the desired scheme of education and training could best be achieved by 'a University course of academic training in a Faculty of Law ... and a period of further institutional training ....' Consequently, it was agreed to establish a Faculty of Law at the Cave Hill Campus of the University of the West Indies and to have the Council of Legal Education establish two law schools in Jamaica and Trinidad and Tobago. A third law school was established much later in The Bahamas. Persons who obtained the UWI LL.B. degree would qualify for automatic admission to the Law Schools for a two-year period of practical professional training after the successful completion of which they would be awarded the Legal Education Certificate. Graduates of the University of Guyana with LL.B. degrees are also admitted to the Law School subject to the University satisfying certain conditions established by the Council. Participating Governments agree to admit such candidates to practice in their national courts. Graduates of other universities are required to pass an examination administered by the Council before admission to the law schools. Legal practitioners from other common law jurisdictions may, on completion of a six months course of training established by the Council, be awarded the Legal Education Certificate awarded by the Council to graduates of UWI and UG who have successfully concluded the two-year professional course of training at the Council's law schools. The Council proposes to extend this period of training from six months to one year.

The composition of the Council includes the following persons: the Dean of the Faculty of Law; the Director of Legal Education and his Deputy or Deputies; the head of the Judiciary of each participating territory; two representatives each from Barbados, Guyana, Jamaica and Trinidad and Tobago nominated by their appropriate professional bodies; one representative from each of the other participating territories nominated by the appropriate professional body. The Council enjoys juridical status in each participating territory having the capacity to contract, to acquire moveable and immoveable property and to institute and defend legal proceedings. And although the Agreement is silent on this issue, it is assumed that legal proceedings involving the Council would be initiated and defended by the Director of Legal Education.

The functions and powers of the Council include: training persons for membership of the legal profession in the Community; establishing and maintaining law schools; appointing a Director of Legal Education and his deputies; concluding examinations and awarding scholarships, studentships, bursaries and prizes; evaluating and recognising legal qualifications of other institutions; collaborating with UWI and UG in discharging any of its functions; making regulations for the discharge of its functions and establishing committees to assist in the efficient discharge of its functions.

Membership of the regime establishing the Council of Legal Education comprises the Governments of Barbados, The Bahamas, Belize, Cayman Islands, Dominica, Grenada, Guyana, Jamaica, St. Kitts, Trinidad and Tobago and the Universities of the West Indies and Guyana. Consideration is being given by the Governments of St. Vincent and the Grenadines and St. Lucia to participating in the regime establishing the Council of Legal Education.

AGREEMENT ESTABLISHING THE COUNCIL OF LEGAL EDUCATION

The contracting parties:

Sharing a common determination to establish without delay a scheme for legal education and training that is suited to the needs of the Caribbean;

Aware that the objectives of such a scheme of education and training should be to provide teaching in legal skills and techniques as well as to pay due regard to the impact of law as an instrument of orderly social and economic change;

Convinced that such a scheme of education and training can best be achieved by:-

> Firstly, a University course of academic training in a Faculty of Law designed to give not only a background of general legal principles and techniques but an appreciation of relevant social science subjects including Caribbean history and contemporary Caribbean affairs;
>
> Secondly, a period of further institutional training directed towards the study of legal subjects, having a practical content and emphasis, and the acquisition of the skills and techniques required for the practice of law;

Recognising the need to vest responsibility for providing the institutional training in a Regional Council of Legal Education which should be established in advance of

students being admitted to the Faculty of Law so as to give assurance that the whole scheme for legal education will be implemented in its entirety;

Hereby agree as follows:

Article 1
Constitution

There shall be a Council of Legal Education (hereinafter called "the Council") with the following membership, status, functions and powers:

1. Membership

(a) The Council shall consist of:

(i) The Dean of the Faculty of Law of the University of the West Indies and another member of the Faculty nominated by him;

(ii) The Director of Legal Education and his Deputy or Deputies;

(iii) The Head of the Judiciary of each participating territory;

(iv) The Attorney General of each participating territory;

(v) From each of the four participating territories in which there are now two branches of the legal profession, namely Jamaica, Barbados, Trinidad and Tobago and Guyana, a Barrister and a Solicitor nominated by their appropriate professional bodies, or in the event of the two branches of the profession at any time becoming fused in any such territory two members of the fused profession nominated by their appropriate professional body;

(vi) From each of the other participating territories one member of the profession nominated by the appropriate professional body.

(b) Each member of the Council appointed under paragraphs (v) and (vi) of Clause (a) above shall hold office for three years from the date of his appointment and shall be eligible for re-appointment. The effective date of appointment of member under the said paragraphs (v) and (vi) shall be the date on which the Council is notified of the appointment.

(c) Each member of the Council may be represented by an alternate to be appointed, in the case of (i) above by the Dean, in the case of (ii), (iii) and (iv) by the members himself and in the case of (v) and (vi) by the body represented by the member.

(d) A casual vacancy, however, occurring in the case of a member appointed under (v) and (vi) may be filled by the body appointing such member and the person appointed to fill such casual vacancy shall hold office for the remainder of the period of the appointment of the member whose place he fills.

(e) Any committee of the Council shall have the power to co-opt such person or persons as it thinks fit.

2. Legal Status

   The Council shall possess full juridical personality and, in particular, full capacity -

   (a) to contract;

   (b) to acquire, and dispose of movable and immovable property; and

   (c) to institute and defend legal proceedings.

3. Functions and Powers

   The functions and the powers of the Council shall be as follows:-

   (a) to undertake and discharge general responsibility for the practical professional training of persons seeking to become members of the legal profession;

   (b) to establish, equip and maintain Law Schools, one in Jamaica, one in Trinidad and Tobago and in such other territories as the Council may from time to time determine, for the purpose of providing postgraduate professional legal training;

   (c) to appoint a Director of Legal Education, one or more Deputy Directors of Legal Education and all necessary staff;

   (d) to make proper provision for courses of study and practical instruction, for the award of scholarships, studentships, bursaries, and prizes, and for holding examinations and granting diplomas and certificates;

   (e) to evaluate courses of study provided by and to accord appropriate recognition of legal qualifications obtained at other institutions;

   (f) in the exercise of any of the above functions or powers to enter into any such agreements with the University of the West Indies, and the University of Guyana as the Council shall think fit;

   (g) to appoint Committees of the Council and to delegate to any such Committee such of its powers as the Council shall think fit provided that the Council shall nevertheless maintain overall responsibility for co-ordinating training throughout the area on a planned and integrated basis paying due regard to the needs of the several participating territories;

   (h) to make regulations for the due discharge of its functions, for the courses and examinations at the Law Schools, and for prescribing fees to be paid and disciplinary rules to be observed by persons admitted to the Law Schools and, subject to the provisions of Articles 7 and 8, to regulate its own procedures;

   (i) to do all such other acts and things whether incidental to the powers aforesaid or not as may be requisite in order to further the objects of the Council.

Article 2
Director of Legal Education

The Director shall be responsible to the Council for the organisation and administration of the Law Schools and of the courses of study and practical instruction and shall exercise such other functions of the Council as the Council may from time to time entrust to him. The Director may delegate to a Deputy Director any of his functions or powers.

Article 3
Admission to Law Schools

Every person who holds a University of the West Indies LL.B. degree shall be eligible for admission to the Law Schools and every person who holds a degree of a University or Institution which is recognised by the Council as being equivalent to the University of the West Indies LL.B. degree shall, subject to the availability of places and to such conditions (if any) as the Council may require, be eligible for admission to the Law Schools. Provided that any national who prior to 1st October,1971 was the holder of a University Degree or had commenced upon a degree programme other than in law and completed that programme before 1st October,1974, shall be eligible to be admitted to one of the professional Law Schools without being required to obtain a degree of LL.B. from the University of the West Indies, or a Law Degree recognised by the Council of Legal Education as equivalent thereto but subject to such other terms and conditions as the Council of Legal Education shall after consultation with the Faculty of Law of the University of the West Indies determine.

Article 4
Legal Education Certificate

On satisfactory completion by any person of the course of study and professional training at one of the Law Schools established by the Council of Legal Education, he shall be awarded by the Council a certificate herein referred to as a Legal Education Certificate.

Article 5
Admission to Practice

1. The Government of each of the participating territories undertakes that it will recognise that any person holding a Legal Education Certificate fulfils the requirements for practice in its territory so far as institutional training and education are concerned and that (subject to the transitional provisions hereinafter contained and to any reciprocal arrangements that any of the said territories may hereafter make with any other country) no person shall be admitted to practise in that territory who does not hold such certificate. But nothing herein contained shall prevent any territory from imposing additional qualifications as a condition of admission to practise therein.

2. The foregoing provisions of this article shall be subject to the terms of the Protocol to this Agreement which shall have effect for the purpose specified therein.

Article 6
Saving and Transitional Provisions

1. The Government of each of the participating territories agrees that the following persons shall be recognised as professionally qualified for admission to practise in its territory, namely -

(a) Any national who is on 1st October, 1971 qualified to be admitted to practise as a solicitor or barrister in that territory;

(b) Any national who prior to 1st October, 1971 was undergoing or had been accepted for a course of legal training leading to any present qualification to practise and who satisfied the requirements of such course on or before 31st December, 1979;

2. In this Article "national" means a person who -

(a) is a citizen of any participating territory; or

(b) is regarded as belonging to any participating territory under any law in force in that territory.

Article 7
Council - Procedure

1. The Council shall meet at such time and place as may from time to time be directed by the Council.

2. The Director of Legal Education shall, upon written request of the Chairman or of five or more members of the Council, specifying the matters to be considered, call a meeting of the Council.

3. Decisions of the Council and of any Committee of the Council shall be by a majority of members present and voting and one-third of the Members of the Council or of any Committee of the Council shall be a quorum.

4. Each member shall have one vote. The Chairman of a meeting in addition to his original vote shall have a casting vote in the event of an equal division.

5. The Council and any Committee of the Council shall be competent to act notwithstanding any vacancy in its membership or any irregularity subsequently discovered in the appointment of its members.

Article 8
Council - Chairman

At the first meeting and as required thereafter the Council shall elect one of its members as Chairman who shall hold office for three years. The Chairman, if present, shall preside at all meetings of the Council and in the event of his absence the members present shall appoint a Chairman.

Article 9
Financial Provisions

1. The revenue of the Council shall be derived from contributions from the Governments of the participating territories, from grants and donations, and from fees payable by persons admitted to the Law Schools.

2. The Council shall have the power to invest any monies belonging to it, including any unapplied income, in such stocks, funds, fully paid shares or securities as the Council may from time to time think fit, whether authorised by the general law for the investment of trust monies or not, with the like power of varying such investments from time to time by sale or reinvestment or otherwise.

3. The Council shall govern, manage and regulate its finances, accounts, investments, property, business and all its affairs whatsoever and for that purpose shall have the power to appoint bankers and any officers or agents whom it may deem expedient to appoint.

4. The interim expenses of the Council (other than those relating to the establishment and operation of the Law Schools) shall be borne by the Governments of the participating territories in the same proportion as the interim expenses of the Faculty of Law of the University of the West Indies. All other expenses relating to the establishment and operation of the Law Schools shall be considered by the Governments of the participating territories and their respective contributions thereto agreed upon at the earliest practicable date.

5. (a) The Council shall cause to be kept proper books of account which shall be audited at least once a year by an auditor who shall be a qualified and independent Accountant in the active practice of his profession appointed by the Council, and shall cause to be prepared not later than three months after the end of each academic year -

(i) a statement showing in detail the income and expenditure of the Council for the immediately preceding academic year.

(ii) a statement of the assets and liabilities of the Council as they stood at the end of the immediately preceding academic year.

(b) Such statements shall be certified by the Auditor appointed by the Council and as soon as may be thereafter a copy of each such statement as audited shall be transmitted to each contracting party.

(c) The Council shall in each year, not later than the date specified in paragraph 5 (a) (i) cause to be prepared and transmitted to each contracting party a report dealing generally with the activities of the Council.

6. The Council, its assets, property, income and its operations and transactions, shall be exempt from all direct taxation and from all custom duties on goods imported for its official use; this shall not include exemption from taxes which are no more than charges for public utility services.

Article 10
Deposit, Ratification and Entry into Force

1. This Agreement shall come into force upon signature or deposit of letters of ratification or acceptance on behalf of the University of the West Indies and the University of Guyana and on behalf of Barbados, Guyana, Jamaica and Trinidad and Tobago.

2. This Agreement shall be subject to ratification or acceptance by the contracting parties. Instruments of ratification or acceptance shall be deposited by the contracting parties with the Depository who shall notify the other contracting parties.

3. This Agreement shall be deposited with the Secretary-General of the Commonwealth Caribbean Regional Secretariat (herein called the "Depository").

4. The Depository shall transmit copies of this Agreement to each contracting party.

Article 11
Participation of Territories Other than Original Signatories

Any of the territories named in Annex 'A' hereof (other than the signatories hereto at the date of the coming into force of this Agreement) may become parties to this Agreement at such time and in accordance with such terms as may be determined by the Council.

Article 12
Inaugural Meeting

As soon this Agreement comes into force, the Vice-Chancellor of the University of the West Indies shall take the necessary steps to secure the nomination of the members of the Council specified in Clause 1 (a) paragraphs (v) and (vi) of Article 1 and to convene the Inaugural Meeting of the Council.

IN WITNESS WHEREOF the undersigned representatives, being duly authorised thereto by their respective Governments or Institutions, have signed the present Agreement.

Done at this day of 1970 in a single copy, which shall be deposited with the Commonwealth Caribbean Regional Secretariat by which certified copies shall be transmitted to all participating Governments.

ANNEX 'A'

Antigua
Bahamas
Barbados
British Honduras
The British Virgin Islands
The Cayman Islands
Dominica

Grenada
Guyana
Jamaica
Montserrat
St. Kitts-Nevis-Anguilla
St. Lucia
St. Vincent
Trinidad and Tobago
The University of the West Indies
The University of Guyana

PROTOCOL TO PROVIDE FOR THE RESERVATION MADE BY THE GOVERNMENT OF THE BAHAMAS TO PARAGRAPH 1 OF ARTICLE 5 OF THE AGREEMENT ESTABLISHING THE COUNCIL OF LEGAL EDUCATION

The contracting parties to the Agreement establishing the Council of Legal Education hereby agree that notwithstanding the provisions of paragraph 1 of Article 5, the Government of the Bahamas shall be able to admit to practice in the Bahamas, persons holding qualifications other than a Legal Education Certificate awarded by the Council of Legal Education. The Government of the Bahamas undertakes to review the position within five years of the coming into force of the Agreement with a view to implementing fully the provisions of paragraph 1 of Article 5.

SUPPLEMENTAL AGREEMENT IN RELATION TO THE COUNCIL OF LEGAL EDUCATION

The contracting parties:

Noting that the Agreement establishing the Council of Legal Education (hereinafter called "the Principal Agreement") came into force on 17th March, 1971;

Noting further that the Council of Legal Education at its inaugural meeting in Barbados on September 20th - 21st, 1971 recommended to participating Governments that certain amendments be made to the Principal Agreement and that a further Protocol relating to the adhesion of the Government of the Cayman Islands be added to that Agreement;

Hereby agree as follows:

Article 1
Interpretation and Construction

The provisions of this Agreement shall be read and construed as one with the Principal Agreement.

Article 2
Amendment to Article 3 of Principal Agreement

Article 3 of the Principal Agreement shall be amended by the deletion of the words "1st October, 1971" and by the substitution therefor of the words "1st October, 1972" and by the deletion of the words "1st October, 1974" and by the substitution therefor of the words "1st October, 1975" and the said Article 3 shall in consequence be in the form set out in Annex I to this Agreement.

Article 3
Amendment to Article 6 of Principal Agreement

Article 6 of the Principal Agreement shall be amended by the deletion from paragraph 1 thereof of the words "1st October, 1971" whenever they occur and by the substitution therefor of the words "1st October, 1972" and by the deletion from paragraph 1 thereof of the words "31st December, 1979" and by the substitution therefor of the words "31st December, 1980" and the said Article 6 shall in consequence be in the form set out in Annex II to this Agreement.

Article 4
Amendment to Annex 'A' of the Principal Agreement

Annex 'A' of the Principal Agreement shall be amended by the addition after the words "TRINIDAD AND TOBAGO" of the words 'THE TURKS AND CAICOS ISLANDS".

Article 5
Further Protocol Relating to Adhesion of Cayman Islands

1. Article 5 of the Principal Agreement shall be amended by the deletion from paragraph 2 thereof of the word "Protocol" and the substitution therefor of the word "Protocols" and by the deletion from the said paragraph of the word "purpose" and the substitution therefor of the word "purposes" and the said Article 5 shall in consequence be in the form set out in Annex III to this Agreement.

2. There shall be attached to the Principal Agreement a further Protocol in the form set out in Annex IV to this Agreement.

Article 6
Entry into Force

1. This Agreement shall come into force upon the deposit by each contracting party which at the date hereof has signed and ratified the Principal Agreement, of an instrument of ratification or acceptance with the Depository: Provided that this Agreement shall not come into force with respect to any contracting party which signs and ratifies the Principal Agreement after the date hereof and before the date on which this Agreement comes into force unless or until that contracting party deposits an instrument of ratification or acceptance of this Agreement.

2. The Depository for the purpose of this Article shall be the Commonwealth Caribbean Regional Secretariat.

3. The Depository shall transmit copies of this Agreement to each contracting Party.

ANNEX I

ADMISSION TO LAW SCHOOLS

Every person who holds a University of the West Indies LL.B. degree shall be eligible for admission to the Law Schools and every person who holds a degree of a University or Institution which is recognised by the Council as being equivalent to the University of the West Indies LL.B. degree shall, subject to the availability of places and to such conditions (if any) as the Council may require, be eligible for admission to the Law Schools. Provided that any national who prior to 1st October,1972 was the holder of a University Degree or had commenced upon a degree programme other than in law and completed that programme before 1st October,1975, shall be eligible to be admitted to one of the professional Law Schools without being required to obtain a degree of LL.B. from the University of the West Indies, or a Law Degree recognised by the Council of Legal Education as equivalent thereto but subject to such other terms and conditions as the Council of Legal Education shall after consultation with the Faculty of Law of the University of the West Indies determine.

ANNEX II

SAVING AND TRANSITIONAL PROVISIONS

1. The Government of each of the participating territories agrees that the following persons shall be recognised as professionally qualified for admission to practise in its territory, namely -

(a) Any national who is on 1st October, 1972 qualified to be admitted to practise as a solicitor or barrister in that territory;

(b) Any national who prior to 1st October, 1972 was undergoing or had been accepted for a course of legal training leading to any present qualification to practise and who satisfied the requirements of such courses on or before 31st December, 1980.

2. In this Article "national" means a person who -

(a) is a citizen of any participating territory; or

(b) is regarded as belonging to any participating territory under any law in force in that territory.

ANNEX III

ADMISSION TO PRACTISE

1. The Government of each of the participating territories undertakes that it will recognise that any person holding a Legal Education Certificate fulfils the requirements for practice in its territory so far as institutional training and education are concerned and that (subject to the transitional provisions hereinafter contained and to any reciprocal arrangements that any of the said territories may hereafter make with any other country) no person shall be admitted to practise in that territory who does not hold such certificate. But nothing herein contained shall prevent any territory from imposing additional qualifications as a condition of admission to practise therein.

2. The foregoing provisions of this article shall be subject to the terms of the Protocols to this Agreement which shall have effect for the purposes specified therein.

ANNEX IV

FURTHER PROTOCOL TO PROVIDE FOR THE ADHESION OF THE GOVERNMENT OF THE CAYMAN ISLANDS NOTWITHSTANDING PARAGRAPH 1 OF ARTICLE 5 OF THE AGREEMENT ESTABLISHING THE COUNCIL OF LEGAL EDUCATION

The Contracting parties to the Agreement establishing the Council of Legal Education hereby agree that notwithstanding the provisions of paragraph 1 of Article 5, the Government of the Cayman Islands shall be able to admit to practise in the Cayman Islands persons holding qualifications other than a Legal Education Certificate awarded by the Council of Legal Education:

Provided that the Government of the Cayman Islands may, at any time not later than five years from the date on which that Agreement entered into force, adhere unconditionally to the full terms of that Agreement but if, at the conclusion of the said period of five years, the Government of the Cayman Islands has not so adhered, it shall cease forthwith to be a participating Government in the Council of Legal Education.

6

THE CARIBBEAN DEVELOPMENT BANK

The attempts to federate the OECS territories and Barbados following the collapse of the wider West Indian Federation in 1962 also resulted in failure. Consequently, it was decided to establish a team of experts to examine the economic viability of the political units. All of these initiatives at political integration by interested metropolitan countries must be appreciated in the context of the cold war, the political alienation of Cuba and the perception that the fragile economies of the Commonwealth Caribbean appeared to be fertile ground for communist expansionism particularly following the events in British Guiana immediately before 1953. In the minds of the metropolises, if the conditions were not ripe for political integration, consideration should be given to economic integration as the next best alternative or risk losing the inquiring minds of the Commonwealth Caribbean to uninformed and untried ideas of socialism enjoying currency in some quarters of the Commonwealth Caribbean. In 1966 the Canada/ Commonwealth Caribbean Conference which convened in Ottawa, recommended, *inter alia*, the establishment of a financial institution to serve the entire Commonwealth Caribbean. A UNDP Group of Experts meeting shortly thereafter, recommended the establishment of the Caribbean Development Bank (CDB) with initial capital of US$50,000,000. This recommendation was acted upon by a conference of plenipotentiaries from the Region which negotiated and concluded the Agreement Establishing the Caribbean Development Bank on October 18, 1969.

Coming as it did after the Dickenson Bay Agreement in 1965 and the CARIFTA Agreement in 1968, it was not surprising that the CDB was expected to play a key role in accelerating the economic development and promoting the economic integration of the regional Member States. These desiderata which were set out in the preambular paragraphs of the Agreement Establishing the Caribbean Development Bank were clearly identified in Article 1 of the Agreement as the purpose of the Bank. In fulfillment of its purpose, the bank was expressly required to perform a variety of functions, including: assistance to regional members in the coordination of their development programmes with a view to achieving better utilisation of their resources, making their economies more complementary and promoting orderly expansion of their international trade, in particular intra-regional trade; mobilisation within and outside the Region of additional resources for the development of the Region; financing of projects and programmes which contribute to the development of the Region or any of the regional members; provision of appropriate technical assistance to regional members particularly by undertaking or commissioning pre-investment surveys and by assisting in the

identification and preparation of project proposals; promotion of public and private investment in development projects by, *inter alia*, aiding financial institutions in the Region and supporting the establishment of consortia; cooperating and assisting in other regional efforts designed to promote regional and locally controlled financial institutions and a regional market for credit and savings and the stimulation and encouragement of the development of capital markets within the Region.

In terms of the principles guiding the Bank's lending policies, there appears to be an understanding among the Member States of the CDB that the principle of special and differential rights for smaller economies which informs the provisions of Chapter Seven of the Revised Treaty of Chaguaramas would be applied. As a fundamental principle, the Bank will not finance in any Member, a project or undertaking to which the Member objects. The Bank, however, makes or participates in loans to regional members or any of their agencies or political sub-divisions, and makes loans to public or private enterprises in regional members and to international and regional agencies engaged in regional economic development. Projects which are not large enough to justify direct financing by the Bank are financed through loans to the regional member concerned to be disbursed to such projects on behalf of the Bank. The Bank may make loans or grants for feasibility studies and project preparation if the Bank considers that the project justifies detailed investigation. As a general rule, the Bank requires borrowers to secure competitive bids from potential suppliers and that engineering plans and specifications be drawn up independently of the suppliers. When the recipient of a loan is not itself a member government, the Bank may require the guarantee of an appropriate entity including a member government. The Bank's loans to institutions cover a wide range of projects including ports, agriculture, livestock, agro-processing and marketing, airports, hotels, tourist facilities, residential mortgages and human resource development.

Membership of the Caribbean Development Bank is open to both States and Territories of the Region and non-regional States belonging to the United Nations, its specialised agencies or the international Atomic Energy Agency. Up to the time of writing, the regional members of the Bank were Anguilla, Antigua and Barbuda, The Bahamas, Barbados, Belize, British Virgin Islands, Cayman Islands, Columbia, Dominica, Grenada, Guyana, Jamaica, Mexico, Montserrat, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines, Trinidad and Tobago, Turks and Caicos Islands, and Venezuela. Non-regional members are Canada, the United Kingdom, Italy, Germany, and the Peoples Republic of China. Regional members who are entitled to contribute up to 60 per cent of the Bank's issue share capital, can borrow from the Bank but non-regional members cannot borrow from the Bank. The structure of the Bank consists of a Board of Governors, a Board of Directors, one President, two Vice-Presidents, other officials of the Bank and other staff. The Board of Governors is the supreme policy-making organ consisting of one governor and one alternate nominated by each member. For this purpose, Anguilla, the British Virgin Islands, Cayman Islands, Montserrat and the Turks and Caicos Islands, otherwise known as the Overseas Territories, are considered to be one member. The borrowing members of the Bank wield a majority of the voting powers of the Board of Governors. The Board of directors consists of 18 directors, 12 of which represent the regional members and six the non-regional members. The Board of Governors may delegate certain powers to the Board of Directors which is responsible for general policy matters of the Bank and the direction of operations. The

President of the Bank is charged, under the direction of the Board of Directors, with the organisation and operation of the Bank. Officials of the Bank, including the President and Vice-Presidents are international bureaucrats owing their loyalty only to the Bank. In the funding of projects, the Board of Directors may only consider projects recommended by the President on behalf of a project appraisal conducted by the officials of the bank

The financial resources of the Bank consist of ordinary capital resources comprising subscribed capital and loan capital and special fund resources established or accepted by the Caribbean Development Bank. The original authorised capital stock of the Bank was 10,000 shares with a par value of US$5,000 each totalling US$50,000,000. Of this amount, US$25,000,000 will be paid up and US$25,000,000 callable shares of the weight and fineness in effect on September 1, 1969. Since its inception to the present, the authorised capital resources of the Bank have been increased several times and today amounts to 107,971 subscribed shares of which 23,643 are paid up and 84,328 are callable. The ordinary capital resources of the Bank may be increased by augmenting its authorised shares or by borrowing.

The Caribbean Development Bank, like so many other inter-governmental organisations within the CARICOM system enjoys full juridical personality in the jurisdictions of regional members with capacity to contract, acquire and dispose of moveable and immoveable property and to initiate and defend legal proceedings. Regional members also accord the CDB, Governors, Directors, their alternates and officers and employees of the Bank functional immunities except when the Bank waives such immunity in specified conditions. These immunities are those normally accorded to officials of inter-governmental institutions under international law. The archives of the Bank are inviolable and its assets are immune from seizure, attachment or execution prior to delivery of final judgement against it. Salaries and emoluments paid by the Bank to Directors, alternates, officials and employees, including experts performing missions for the Bank are exempt from taxation except Governments reserve the right to tax their nationals or permanent residents. These immunities, privileges and exemptions are set out in a headquarters agreement between the Government of Barbados and the Caribbean Development Bank. Other regional members have enacted legislation to accord the Bank and persons entitled the privileges, immunities and exemptions mentioned above.

AGREEMENT ESTABLISHING THE CARIBBEAN DEVELOPMENT BANK

The contracting parties:

Conscious of the need to accelerate the economic development of States and Territories of the Caribbean and to improve the standards of living of their peoples;

Recognizing the resolve of these States and Territories to intensify economic co-operation and promote economic integration in the Caribbean;

Aware of the desire of other countries outside the region to contribute to the economic development of the region;

Considering that such regional economic development urgently requires the mobilization of additional financial and other resources; and

Convinced that the establishment of a regional financial institution with the broadest possible participation will facilitate the achievement of these ends;

Hereby agree as follows:

INTRODUCTORY ARTICLE

The Caribbean Development Bank (hereinafter called the "Bank") is hereby established and shall be governed by the following:

ARTICLES OF AGREEMENT

CHAPTER I - PURPOSE, FUNCTIONS AND PARTICIPATION

Article 1
Purpose

The purpose of the Bank shall be to contribute to the harmonious economic growth and development of the member countries in the Caribbean (hereinafter called the "region") and to promote economic co-operation and integration among them, having special and urgent regard to the needs of the less developed members of the Region.

Article 2
Functions

1. To carry out its purpose, the Bank shall have the following functions:
   (a) to assist regional members in the co-ordination of their development programmes with a view to achieving better utilization of their resources, making their economies more complementary, and promoting the orderly expansion of their international trade, in particular intra-regional trade;
   (b) to mobilize within and outside the region additional financial resources for the development of the region;
   (c) to finance projects and programmes contributing to the development of the region or any of the regional members;
   (d) to provide appropriate technical assistance to its regional members, particularly by undertaking or commissioning pre-investment surveys and by assisting in the identification and preparation of project proposals;
   (e) to promote public and private investment in development projects by, among other means, aiding financial institutions in the region and supporting the establishment of consortia;

(f) to co-operate and assist in other regional efforts designed to promote regional and locally controlled financial institutions and a regional market for credit and savings;

(g) to stimulate and encourage the development of capital markets within the region, and

(h) to undertake or promote such other activities as may advance its purpose.

2. The Bank shall, where appropriate, co-operate with national, regional or international organizations or other entities concerned with the development of the region.

Article 3
Membership

1. Membership in the Bank shall be open to:

(a) States and Territories of the region; and

(b) non-regional States which are members of the United Nations or of any of its specialized agencies or of the International Atomic Energy Agency.

2. The States and Territories listed in Annex A to this Agreement the Governments of which sign this Agreement in accordance with paragraph 1 of Article 62 and ratify or accept it in accordance with paragraph 1 of Article 63 shall become members of the Bank.

3. States and Territories eligible for membership under paragraph 1 of this Article which do not become members in accordance with paragraph 2 of this Article may be admitted to membership on such terms and conditions as the Bank may determine by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members, and on acceding to this Agreement in accordance with paragraph 2 of Article 63.

4. For the purpose of Articles 26, 32 and 65 the last four Territories listed in Category A of Annex A to this Agreement shall be considered as a single member of the Bank.

Article 4
Participation of Non-Members

The Bank shall encourage and facilitate the fullest co-operation and participation in its activities of other regional or non-regional States which are members of the United Nations or any of its specialized agencies or of the International Atomic Energy Agency and which may further its purpose, and shall take such measures as it may deem appropriate under the provisions of this Agreement to promote such co-operation and participation.

CHAPTER II - CAPITAL AND OTHER RESOURCES

Article 5
Authorized Capital

1. The authorized capital stock of the Bank shall be the equivalent of fifty million dollars ($50,000,000) in terms of United States dollars of the weight and fineness in effect on 1st September, 1969. The authorized capital stock shall be divided into ten thousand (10,000) shares with a par value of five thousand dollars ($5,000) each, which shall be available for subscription only by members in accordance with the provisions of Article 6.

2. The original authorized capital stock shall be divided into paid-up shares and callable shares. Shares having an aggregate par value equivalent to twenty-five million dollars ($25,000,000) shall be paid-up shares and shares having an aggregate par value equivalent to twenty-five million dollars ($25,000,000) shall be callable shares.

3. The authorized capital stock may be increased by the Board of Governors at such time and on such terms and conditions as it may determine by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members.

4. In this Agreement the expression "dollar" means a United States dollar of the value specified in paragraph 1 of this Article.

Article 6
Subscription of Shares

1. Each member shall subscribe to shares of the capital stock of the Bank. Each subscription to the original authorized capital stock shall be for paid-up and callable shares in equal parts. The initial number of shares to be subscribed by those States and Territories which become members in accordance with paragraph 2 of Article 3 shall be as set forth in Annex A to this Agreement which shall form an integral part thereof. The initial number of shares to be subscribed by those States and Territories which are admitted to membership in accordance with paragraph 3 of Article 3 shall be determined by the Board of Governors in accordance with that paragraph.

2. The authorized capital stock of the Bank shall at all times be held or be available for subscription in the following manner:

(a) not less than sixty (60) per cent by regional members; and

(b) not more than forty (40) per cent by other members.

3. In case of an increase in the authorized capital stock, each member shall have a right to subscribe, on such terms and conditions as the Board of Governors shall determine, to a proportion of the increase of stock equivalent to the proportion which its stock previously subscribed bears to the total subscribed capital stock immediately before such increase, provided, however, that this provision shall not apply in respect of any increase or portion of an increase in the authorized capital stock which is intended

solely to give effect to determinations of the Board of Governors under paragraphs 1 and 4 of this Article. No member shall be obligated to subscribe to any part of an increase in capital stock.

4. Subject to the provisions of paragraph 2 of this Article, the Board of Governors may, at the request of a member, increase the subscription of such member on such terms and conditions as the Board may determine. The Board of Governors shall pay special regard to the request of any regional member having less than five (5) per cent of the subscribed capital stock to increase its subscription.

5. Shares initially subscribed by those States and Territories which become members in accordance with paragraph 2 of Article 3 shall be issued at par. Other shares shall be issued at par unless the Board of Governors by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members decides in special circumstances to issue them on other terms.

6. Shares shall not be pledged or encumbered in any manner whatsoever. They shall not be transferable except to the Bank.

7. Liability of the members on shares shall be limited to the unpaid portion of their issue price.

8. Except as provided in paragraph 7 of this Article, no member shall be liable, by reason of its membership, for obligations of the Bank.

Article 7
Payment of Subscriptions

1. Payment of the amount due in respect of paid-up shares initially subscribed by a State or Territory which becomes a member in accordance with paragraph 2 of Article 3 shall be made in six (6) instalments. The first instalment shall equal 20 per cent of that amount and the remaining five instalments shall each equal 16 per cent of that amount. The first instalment shall be paid by each member not later than 90 days after entry into force of this Agreement or on or before the date of deposit of its instrument of ratification or acceptance in accordance with Article 63, whichever is the later. The second instalment shall be paid not later than one (1) year from the entry into force of this Agreement. The remaining four instalments shall each be paid successively not later than one (1) year from the date on which the preceding instalment becomes payable.

2. Of each instalment of an initial subscription payable under paragraph 1 of this Article by a State or Territory which becomes a member pursuant to paragraph 2 of Article 3:

(a) fifty (50) per cent shall be paid in gold or in a convertible currency which is freely and effectively useable in the operations of the Bank or in a currency which is freely and fully convertible into such a currency, provided that if the currency of that member meets either of such requirements, such payment shall be made in the currency of that member; and

(b) fifty (50) per cent shall be paid in the currency of that member, subject to the provisions of paragraph 5 of this Article.

3. Each payment of a member in its own or another currency shall be in such amount as the Bank, after such consultation with the International Monetary Fund as it may consider necessary and utilizing the par value, if any, established with the International Monetary Fund, shall determine to be equivalent to the full value in terms of dollars of the portion of the subscription being paid. The first instalment payable pursuant to paragraph 1 of this Article shall be in such amount as that member considers appropriate in accordance with this paragraph, but shall be subject to such adjustment, to be effected within ninety (90) days of the date on which such payment was due, as the Bank shall determine to be necessary to constitute the full dollar equivalent of such payment.

4. Subject to the provisions of paragraphs 6 and 7 of this Article relating to callable shares, payment of other subscriptions in respect of original authorized shares and of increases in the capital stock of the Bank shall be made at such times and in gold or in such currencies as the Board of Governors shall determine and the Board may determine with the agreement of all members that different proportions of such capital be paid up by different members.

5. The Bank shall accept from a member, in place of any part of the member's currency paid or to be paid by the member under paragraph 2(b) of this Article or under paragraph 1 of Article 24 in respect of payments under paragraph 2(b) of this Article, provided such currency is not required by the Bank for the conduct of its operations, promissory notes or other obligations issued by the Government of the member or by the depository designated by the member pursuant to Article 37. Such notes or other obligations shall be non-negotiable, non-interest bearing, and payable at their par value upon demand. Subject to paragraph 5 of Article 23, demand for payment of such notes or other obligations shall be made only as and when the funds are required by the Bank for the conduct of its operations, provided, however, that a member which has issued such promissory notes or other obligations may at the request of the Bank convert any of them into interest-bearing notes or into cash to be invested in government securities of that member. Demands upon such notes or obligations shall, as far as practicable over reasonable periods of time, be uniform in percentage of all such notes and obligations. Notwithstanding the issuance or acceptance of a note or other obligation by the Bank, the obligation of the member under paragraph 2(b) of this Article and under Article 24 shall subsist.

6. Callable shares shall be subject to call only as and when required by the Bank to meet its obligations incurred pursuant to sub-paragraphs (b) and (d) of Article 13 on borrowings of funds for inclusion in its ordinary capital resources or on guarantees chargeable to such resources. Such calls on unpaid subscriptions shall be uniform in percentage on all callable shares.

7. Payment of calls referred to in paragraph 6 of this Article may be made at the option of the member in gold, convertible currency or in the currency required to discharge the obligations of the Bank for the purpose of which the call is made.

8. The Bank shall determine the place for any payment under this Article, provided that, until the inaugural meeting of the Board of Governors the payment of the first instalment referred to in paragraph 1 of this Article shall be made to the Government of Barbados as Trustee of the Bank.

6 The Caribbean Development Bank.pmd 115 4/1/2003, 9:02 AM

Article 8
Special Funds

1. A special fund to be known as the Special Development Fund is hereby established into which the Bank may receive contributions or loans. The Special Development Fund may be used to make or guarantee loans of high developmental priority, with longer maturities, longer deferred commencement of repayment and lower interest rates than those determined by the Bank for its ordinary operations. The Bank shall, as soon as practicable, adopt rules and regulations for the administration and use of the Special Development Fund.

2. The Bank may establish, or be entrusted with the administration of, other special funds which are designed to serve its purpose and fall within its functions. It shall adopt such special rules and regulations as may be required for the establishment, administration and use of the resources of each special fund.

3. Subject to the provisions of paragraph 1 of this Article relating to the Special Development Fund, the terms and conditions upon which the Bank may receive contributions or loans for special funds, including the Special Development Fund, shall be such as may be agreed upon between the Bank and the contributor or lender, and special funds may be used in any manner and on any terms and conditions not inconsistent with the purpose and functions of the Bank or with any agreement relating to such funds.

4. No allocation may be made to the Special Development Fund provided for in paragraph 1 of this Article or to any other special fund from the paid-up capital or reserve of the Bank or from funds borrowed by the Bank for inclusion in its ordinary capital resources.

5. The rules and regulations relating to any special fund shall be consistent with the provisions of this Agreement except those which expressly apply only to ordinary operations of the Bank. Where such rules and regulations do not apply, special funds shall be governed by the provisions of this Agreement.

Article 9
Ordinary Capital Resources and Special Funds Resources

1. The resources of the Bank shall consist of ordinary capital resources and special funds resources.

2. In this Agreement, the expression "ordinary capital resources" includes the following:

(a) authorized capital stock of the Bank subscribed pursuant to Article 6;

(b) funds borrowed by the Bank to which the commitment to calls provided for in paragraph 6 of Article 7 is applicable;

(c) funds received in repayment of loans or guarantees made with the resources referred to in sub-paragraphs (a) and (b) of this paragraph;

(d) income derived from loans made from the aforementioned funds or from guarantees to which the commitment to calls provided for in paragraph 6 of Article 7 is applicable; and

(e) any other funds or income received by the Bank which do not form part of any special funds resources.

3. In this Agreement, the expression "special funds resources" refers to the resources of any special fund and includes the following:

(a) resources initially contributed to any special fund;

(b) funds accepted by the Bank for inclusion in any special fund;

(c) funds repaid in respect of loans or guarantees financed from the resources of any special fund which, under the rules and regulations of the Bank governing that special fund, are received by such special fund;

(d) income derived from operations of the Bank in which any of the aforementioned resources or funds are used or committed if, under the rules and regulations of the Bank governing the special fund concerned, that income accrues to such special fund; and

(e) any other resources placed at the disposal of any special fund.

CHAPTER III - OPERATIONS

Article 10
Use of Resources

The resources and facilities of the Bank shall be used exclusively to further the purpose and carry out the functions set forth, respectively, in Articles 1 and 2 of this Agreement.

Article 11
Ordinary and Special Operations

1. The operations of the Bank shall consist of ordinary operations and special operations.

2. Ordinary operations shall be those financed from the ordinary capital resources of the Bank.

3. Special operations shall be those financed from special funds resources.

Article 12
Separation of Operations

1. The ordinary capital resources of the Bank shall at all times and in all respects be held, used, committed, invested or otherwise disposed of, entirely separate from special funds resources. Each special fund, its resources and accounts shall be kept entirely separate from other special funds, their resources and accounts.

2. The ordinary capital resources of the Bank shall not be charged with, or used to discharge, losses or liabilities arising out of operations or other activities of any special

fund. Special funds resources appertaining to any special fund shall not be charged with, or used to discharge, losses or liabilities arising out of operations or other activities of the Bank financed from its ordinary capital resources or from special resources appertaining to any other special fund.

3. In the operations and other activities of any special fund, the liability of the Bank shall be limited to the resources appertaining to that special fund which are at the disposal of the Bank.

4. The financial statements of the Bank shall show the ordinary operations and the special operations of the Bank separately. Expenses appertaining to ordinary operations shall be charged to the ordinary capital resources of the Bank. Expenses appertaining directly to special operations shall be charged to the special funds resources. Any other expenses shall be charged as the Bank shall determine.

5. The Bank shall adopt such other rules and regulations as may be required to ensure the effective separation of the two types of its operations.

Article 13
Recipients and Methods of Ordinary Operations

In its ordinary operations, the Bank may provide or facilitate financing for any regional member or any political subdivision or any agency thereof, or any other entity or enterprise in the public or private sector operating in the territory of such member, as well as for international or regional agencies or other entities concerned with the economic development of the region. The Bank may carry out such operations in any of the following ways:

(a) by making or participating in direct loans with its unimpaired paid-up capital and, except as provided in Article 18, with its reserves and undistributed surplus;

(b) by making or participating in direct loans with funds raised by the Bank in capital markets or borrowed or otherwise acquired by the Bank for inclusion in its ordinary capital resources;

(c) by investment of the funds referred to in paragraphs (a) and (b) of this Article in the equity capital of an entity or enterprise, provided, however, that no such investment shall be made until after the Board of Governors, by a vote of not less than two-thirds of the total number of governors representing not less than three-fourths of the total voting power of the members, shall have determined that the Bank is in a position to begin such type of operations; or

(d) by guaranteeing, whether as primary or secondary obligor, in whole or in part, loans for economic development.

Article 14
Limitations on Operations

1. The total amount outstanding of loans, equity investments and guarantees made by the Bank in its ordinary operations shall not at any time exceed the total amount of its unimpaired subscribed capital, reserves and surplus and any other funds included in

its ordinary capital resources, exclusive of the special reserve provided for in Article 18 and other reserves not available for ordinary operations.

2. The total amount outstanding in respect of the special operations of the Bank relating to any special fund shall not at any time exceed the total amount of the unimpaired resources appertaining to that special fund.

3. In the case of funds invested in equity capital out of the ordinary capital resources of the Bank, the total amount invested shall not at any time exceed ten (10) per cent of the aggregate amount of the unimpaired paid-up capital stock of the Bank actually paid up at any given time together with the reserves and surplus included in its ordinary capital resources, exclusive of the special reserve provided for in Article 18.

4. The amount of any equity investment shall not exceed such percentage of the equity capital of the entity or enterprise concerned as the Board of Directors shall from time to time or in each specific case determine to be appropriate. The Bank shall not seek to obtain by such an investment a controlling interest in the entity or enterprise concerned, except where necessary to safeguard the investment of the Bank.

Article 15
Operating Principles

Subject to the provisions of this Agreement, the operations of the Bank shall be conducted in accordance with the following principles:

(a) The operations of the Bank shall provide principally for the financing of specific projects, including those forming part of a national, sub-regional or regional development programme. They may, however, include loans to, or guarantees of loans made to, national development banks or other suitable financial institutions, in order that the latter may finance development projects on terms approved by the Bank where the individual financing requirements of such projects are not, in the opinion of the Bank, large enough to warrant the direct supervision of the Bank.

(b) The Bank shall not finance any undertaking in the territory of a member if that member objects to such financing.

(c) Before a loan or guarantee is granted, the applicant shall have submitted an adequate loan or guarantee proposal and the President of the Bank shall have presented to the Board of Directors a written report regarding the proposal together with his recommendations on the basis of a staff study.

(d) In considering an application for a loan or guarantee, the Bank shall pay due regard to the ability of the borrower to obtain financing elsewhere on terms and conditions that the Bank considers reasonable for the recipient.

(e) In making or guaranteeing a loan, the Bank shall pay due regard to the prospects that the borrower and its guarantor, if any, will be in a position to meet their obligations under the loan contract.

(f) In making or guaranteeing a loan, the rate of interest, other charges and the schedule for repayment of principal shall be such as are, in the opinion of the Bank, appropriate for the loan concerned.

(g) In guaranteeing a loan made by other investors, or in underwriting the sale of securities, the Bank shall receive suitable compensation for its risk.

(h) The proceeds of financing in the ordinary operations of the Bank shall normally be used only for procurement, in territories of members, of goods and services produced in those territories. In special cases the Board of Directors may, however, determine the circumstances in which the procurement of goods and services may be permitted elsewhere, giving particular consideration wherever practicable to procurement of goods and services produced in the territory of countries which have contributed substantially to the resources of the Bank.

(i) In procuring services, and in facilitating financing for entities or enterprises in the private sector, the Bank shall pay due regard to the need to develop and strengthen undertakings, entities and skills of individuals belonging to the region.

(j) In the case of a direct loan made by the Bank, the borrower shall be permitted by the Bank to draw its funds only to meet expenditures in connection with the project as they are actually incurred.

(k) The Bank shall take the necessary measures to ensure that the proceeds of any loan made, guaranteed, or participated in by the Bank are used only for the purposes for which the loan was granted and with due regard to considerations of economy and efficiency.

(l) The Bank shall pay due regard to the desirability of a reasonable distribution of the benefits from its operations among the members in the region.

(m) The Bank shall seek to maintain reasonable diversification in its investments in equity capital.

(n) The Bank may provide financing to meet either external or local expenditures in respect of a project being assisted, provided that in its ordinary operations the Bank shall provide financing for local expenditures in the territory in which the project is located only in exceptional circumstances and not exceeding a reasonable proportion of the total of such expenditures, or in circumstances where such financing may be provided with local currency restricted under paragraph 2 of Article 23.

(o) The Bank shall be guided by sound development banking principles in its operations.

Article 16
Terms and Conditions for Direct Loans and Guarantees

1. In the case of direct loans made or participated in or loans guaranteed by the Bank, the contract shall establish the terms and conditions for the loan or guarantee concerned, including those relating to payment of principal, interest and other charges, maturities, and dates of payment in respect of the loan, or the fees and other charges in respect of the guarantee, respectively.

2. Subject in the case of special operations to any rules and regulations or other arrangements relating thereto, the contract relating to a loan made or guaranteed by the Bank shall specify the currency or currencies to be used in making repayments to the Bank, or stipulate that repayments shall be made in the currency or currencies loaned, or make other appropriate provision for the currency or currencies of repayment. At the option of the borrower, however, such repayments may be made in gold or, subject to the agreement of the Bank, in any convertible currency. The contract may also provide that the amount of repayments to the Bank shall be equivalent, in terms of a currency specified for that purpose by the Bank, to the value of those repayments on the date or dates on which the loan was disbursed.

3. Where the recipient of a loan or guarantee of a loan is not itself a member, the Bank may, when it deems it advisable, make it a condition of the contract that the member in whose territory the project concerned is to be carried out, or a public agency of that member acceptable to the Bank, guarantee the repayment of the principal and the payment of interest and other charges on the loan in accordance with the terms thereof.

Article 17
Commission and Fees

1. The Bank shall determine the rate and any other terms and conditions of the commission to be charged in connection with direct loans made or participated in as part of its ordinary operations. This commission shall be computed on the amount outstanding on each loan or participation and shall be at the rate of not less than one (1) per cent per annum in the first five (5) years of the operations of the Bank. At the end of this period, the rate of commission may be set at such level as the Bank considers appropriate in the light of the level of the reserves of the Bank.

2. In guaranteeing a loan as part of its ordinary operations, the Bank shall, in addition to any other charges, require a guarantee fee, at a rate determined by the Board of Directors, payable periodically on the amount of the loan outstanding.

3. Other charges of the Bank in its ordinary operations, and any commission, fees or other charges in its special operations, shall be determined by the Board of Directors.

Article 18
Special Reserve

The amount of commissions and guarantee fees received by the Bank pursuant to Article 17 of this Agreement shall be set aside as a special reserve which shall be kept for meeting liabilities of the Bank. The special reserve shall be held in such liquid form as the Board of Directors may decide, provided that whenever it is in the interest of the Bank the special reserve may be invested in the securities of the region.

Article 19
Methods of Meeting Liabilities of the Bank

1. Whenever necessary to meet contractual payments of interest, other charges or amortization on borrowings of the Bank in its ordinary operations, or to meet its liabilities with respect to similar payments in respect of loans guaranteed by it, chargeable to its

ordinary capital resources, the Bank may call an appropriate amount of callable shares in accordance with paragraph 6 of Article 7.

2. If the subscribed callable capital stock of the Bank shall be entirely called pursuant to paragraph 6 of Article 7, the Bank may, if necessary for the purpose specified in paragraph 1 of this Article, use or exchange the currency of any member without restriction, including any restriction imposed pursuant to paragraph 2 of Article 23.

CHAPTER IV - BORROWING AND OTHER MISCELLANEOUS POWERS

Article 20
General Powers

In addition to the powers provided elsewhere in this Agreement, the Bank shall have the power to:

(a) borrow funds in the territories of members or elsewhere, and in this connection to furnish such collateral or other security therefor as the Bank shall determine, provided always that:

  (i) before making a sale of its obligations in a country, the Bank shall seek the approval of the competent authorities of that country;

  (ii) where the obligations of the Bank are to be denominated in the currency of a member, the Bank shall have obtained the approval of the competent authorities of that member;

  (iii) the Bank shall obtain the approval of the competent authorities referred to in sub-paragraphs (i) and (ii) of this paragraph that the proceeds may be exchanged for any other currency without restriction; and

  (iv) before determining whether to sell its obligations in a particular country, the Bank shall consider the amount of previous borrowing, if any, in that country, the amount of previous borrowings in other countries, and the possible availability of funds in such other countries and shall give due regard to the general principle that its borrowings should, as far as possible, be diversified as to the country of borrowing;

(b) buy and sell securities the Bank has issued or guaranteed or in which it has invested, provided always that it shall have obtained the approval of the competent authorities of the country where the securities are to be bought or sold;

(c) guarantee securities in which it has invested, in order to facilitate their sale;

(d) underwrite, or participate in the underwriting of, securities issued by any enterprise or entity for purposes consistent with the purpose and functions of the Bank;

(e) invest or deposit funds, not needed in its operations, in the territories of members or of substantial contributors to the resources of the Bank, in such obligations or institutions of members or substantial contributors, or nationals thereof, as it may determine, except where the Board of Directors by a vote of not less than three-fourths of the total voting power of the members determines otherwise;

(f) assist regional members in matters relating to the foreign placement of official loans;

(g) borrow from Governments, their political sub-divisions and instrumentalities, and international organizations, on such terms and conditions as may be agreed upon between the Bank and the lender;

(h) provide technical assistance which serves its purpose and comes within its functions, and where expenditures incurred in furnishing such services are not reimbursable, charge the income of the Bank therewith; and

(i) exercise such other powers and adopt such rules and regulations as may be necessary or appropriate in furtherance of its purpose and functions and consistent with the provisions of this Agreement.

Article 21
Notice to be Placed on Securities

Every security issued or guaranteed by the Bank shall include a statement to the effect that it is not an obligation of any Government, unless it is in fact the obligation of a particular Government, in which case it shall so state.

CHAPTER V - CURRENCIES

Article 22
Valuation of Currencies and Determination of Convertibility

Whenever the Bank considers it necessary under this Agreement:

(a) to value any currency in terms of another currency or of gold, or

(b) to determine whether any currency is convertible,

such valuation or determination, as the case may be, shall be reasonably made by the Bank after consultation with the International Monetary Fund.

Article 23
Use of Currencies

1. The currency of any member held by the Bank as part of its ordinary capital resources, however acquired, may be used by the Bank or by any recipient from the Bank, without restriction by that member, to make payments for expenditures within, or for goods and services produced in, the territory of that member.

2. Members may not maintain or impose any restrictions on the holding or use by the Bank or by any recipient from the Bank, for payments in any country, of gold or any currency received by the Bank and included in its ordinary capital resources; except that a regional member may, after consultation with and subject to periodic review by the Bank, restrict, in whole or in part, to expenditure in the territory of that member the use of its currency paid in as, or derived as repayments of principal from, currency of the member paid pursuant to paragraph 2(b) of Article 7.

3. The use of any currency received and held by the Bank as part of its special funds resources shall be governed by the rules, regulations and agreements pertaining thereto and made by virtue of the provisions of Article 8.

4. Gold or currencies held by the Bank may not be used by the Bank to purchase currencies of members or non-members except with the approval of the member or members whose currencies are involved, but may be so used without such approval:

(i) in order to meet the obligations of the Bank in the ordinary course of its business; or

(ii) if the currency to be used for such purchase is the currency of a member received by the Bank as a payment on account of the subscription of another member; or

(iii) pursuant to a decision of the Board of Directors by a vote of the Directors representing not less than two-thirds of the total voting power of the members.

5. Nothing in this Agreement shall preclude the Bank from using the currency of any member for administrative expenses incurred by the Bank in the territory of that member.

Article 24
Maintenance of Value of the Currency Holdings of the Bank

1. Whenever the par value in the International Monetary Fund of the currency of a member is reduced or the foreign exchange value of such currency has, in the opinion of the Bank, depreciated to a significant extent within its territories, that member shall pay to the Bank within a reasonable time an additional amount of its currency sufficient to maintain the value as of the time of subscription of the amount of such currency which is held or subsequently received by the Bank (whether or not any such currency is held in the form of notes or other obligations issued pursuant to paragraph 5 of Article 7) and consisting of, or derived as repayments of principal from, currency originally paid to the Bank by such member pursuant to paragraph 2(a) or paragraph 2(b) of Article 7, or any additional currency paid pursuant to the provisions of the present paragraph; provided, however, that, to the extent that the Bank shall, in its opinion, have received from any borrower of such currency, or from any guarantor, amounts paid solely as a result of such reduction in par value or of such depreciation, the Bank shall *pro tanto* relieve that member of its obligations under the present paragraph.

2. Whenever the par value of the currency of a member is increased, the Bank shall pay to that member within a reasonable time an amount of such currency equal to the increase in the value of that amount of the member's currency held or subsequently

received by the Bank to which paragraph 1 of this Article would be applicable; provided, however, that the Bank shall not be obligated to make such payment to the extent that the benefit of any such increase in par value shall have been passed on by the Bank to any borrower or guarantor as a corollary of the obligation of either to make increased payments to the Bank in case of a decrease in the par value of such currency.

3. The provisions of the preceding two paragraphs may be waived or deemed inoperative by the Bank when a uniform change in the par values of the currencies of all its members is made by the International Monetary Fund.

4. Amounts paid by a member pursuant to the provisions of paragraph 1 of this Article to maintain the value of any of its currency shall be useable and convertible to the same extent as the original currency in respect of which such amounts are paid.

5. In the case of a member whose currency does not have a par value established with the International Monetary Fund, the initial value of such currency in terms of dollars shall be as determined by the Bank pursuant to paragraph 3 of Article 7, or otherwise, for purposes of payments by such member on account of its subscription. The Bank may, from time to time thereafter, make a similar determination with respect to the value in terms of dollars of such currency. For the purposes of the provisions of paragraphs 1 and 2 of this Article, the value so determined from time to time shall be treated as if it were the par value of such currency.

CHAPTER VI - ORGANIZATION AND MANAGEMENT

Article 25
Structure

The Bank shall have a Board of Governors, a Board of Directors, a President, a Vice-President, and such other officers and staff as may be considered necessary.

Article 26
Board of Governors: Composition

1. Each member shall be represented on the Board of Governors and shall appoint one governor and one alternate. Each governor and alternate shall serve at the pleasure of the appointing member. No alternate may vote except in the absence of his principal. At each annual meeting, the Board of Governors shall elect one of the governors as Chairman who shall hold office until the election of the next Chairman.

2. Governors and alternates shall serve as such without remuneration from the Bank, but the Bank may pay them reasonable expenses incurred in attending meetings.

Article 27
Board of Governors: Powers

1. All the powers of the Bank shall be vested in the Board of Governors.

2. The Board of Governors may delegate to the Board of Directors any or all its powers, except the power to:

(a) admit new members and determine the conditions of their admission;

(b) increase or decrease the authorized capital stock of the Bank;

(c) suspend a member;

(d) decide appeals from decisions regarding the interpretation or application of this Agreement made by the Board of Directors;

(e) authorize the conclusion of general agreements for co-operation with Governments and with other international organizations;

(f) elect the directors and the President of the Bank;

(g) determine the remuneration of the directors and their alternates;

(h) determine the reserves and the distribution of the net profits of the Bank;

(i) amend this Agreement;

(j) decide to terminate the operations of the Bank and to distribute its assets;

(k) select external auditors to certify the general balance sheet and the statement of profit and loss of the Bank and to select such other experts as may be necessary to examine and report on the general management of the Bank;

(l) approve, after reviewing the report of the external auditors, the general balance sheet and statements of profit and loss of the Bank; and

(m) exercise such other powers as are expressly assigned to the Board of Governors in this Agreement.

3. The Board of Governors shall retain full power to exercise authority over any matter delegated to the Board of Directors in accordance with paragraph 2 of this Article.

Article 28
Board of Governors: Procedure

1. The Board of Governors shall hold an annual meeting and such other meetings as may be provided for by the Board of Governors or called by the Board of Directors. Meetings of the Board of Governors other than the annual meeting shall be called by the Board of Directors whenever requested by a majority of the members of the Bank.

2. A majority of the total number of the governors shall constitute a quorum for any meeting of the Board of Governors, provided such majority represents not less than two-thirds of the total voting power of the members.

3. The Board of Governors may by regulation establish a procedure whereby the Board of Directors, when the latter deems such action advisable, may obtain a vote of the governors on a specific question without calling a meeting of the Board of Governors.

4. The Board of Governors may establish such subsidiary bodies as may be necessary or appropriate for the conduct of the business of the Bank.

Article 29
Board of Directors: Composition

1. (a) The Board of Directors shall be composed of seven (7) members of whom:
   (i) five (5) shall be selected by the governors representing regional members; and
   (ii) two (2) shall be selected by the governors representing non-regional members.
   (b) When other States or Territories become members, the Board of Governors may, by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members, increase the total number of directors.
   (c) The directors shall be selected in accordance with rules of procedure to be adopted by the Board of Governors by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members. The said rules shall give effect to the principles relating to regional directors set out in Part I of Annex B to this Agreement. Until such rules have been adopted, the directors shall be selected in accordance with Part II of the said Annex B.

2. Directors shall be persons of high competence in economic and financial matters and shall be selected with due regard to the principle of equitable geographical distribution.

3. Each director shall appoint an alternate with full power to act for him when he is not present.

4. Directors shall hold office for a term of two (2) years and shall be eligible for selection for a further term or terms of office. They shall continue in office until their successors shall have been selected and assumed office. If the office of a director becomes vacant before the expiration of his term of office the vacancy shall be filled by a new director who shall be selected by the governors representing the members who selected his predecessor and he shall hold office for the remainder of the term of office of his predecessor.

Article 30
Board of Directors: Powers

The Board of Directors shall be responsible for the direction of the general operations of the Bank and, for this purpose, shall, in addition to the powers assigned to it expressly in this Agreement, exercise all the powers delegated to it by the Board of Governors, and in particular:

(a) prepare the work of the Board of Governors;
(b) in conformity with the general directions of the Board of Governors, take decisions concerning loans, guarantees, investments in equity capital, borrowing by the Bank, furnishing of technical assistance, and other operations of the Bank;

(c) submit the accounts for each financial year to the Board of Governors at each annual meeting; and

(d) approve the budget of the Bank.

Article 31
Board of Directors: Procedure

1. The Board of Directors shall normally function at the principal office of the Bank and shall meet as often as the business of the Bank may require.

2. A majority of the directors shall constitute a quorum for any meeting of the Board of Directors, provided that such majority represents not less than two-thirds of the total voting power of the members.

3. The Board of Governors shall adopt regulations under which a member may send a representative to attend any meeting of the Board of Directors when a matter particularly affecting that member is under consideration.

Article 32
Voting

1. Each member shall have 150 votes plus one additional vote for each share of capital stock held by it.

2. In voting in the Board of Governors, each governor shall be entitled to cast the votes of the members he represents. Except as otherwise expressly provided in this Agreement, all matters before the Board of Governors shall be determined by a majority of the voting power of the members represented at the meeting.

3. In voting in the Board of Directors, each director shall be entitled to cast the number of votes of the member or members whose votes counted towards his selection, which votes must be cast as a unit. Except as otherwise expressly provided in this Agreement, all matters before the Board of Directors shall be determined by a majority of the voting power of the members represented at the meeting.

Article 33
The President

1. The Board of Governors, by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members, shall elect a President of the Bank. The President, while holding office, shall not be a governor or a director or an alternate for either.

2. The term of office of the President shall be for such period not exceeding five (5) years as the Board of Governors may determine. He may be re-elected. He shall, however, cease to hold office when the Board of Governors so decides by a vote of not less than two-thirds of the total number of the governors representing not less than three-fourths of the total voting power of the members.

3. The President shall be Chairman of the Board of Directors but shall have no right to vote, except to vote in case of an equal division. He may participate in meetings of the Board of Governors but shall not vote.

4. The President shall be chief executive officer of the Bank and shall conduct, under the direction of the Board of Directors, the current business of the Bank. He shall be responsible for the organization, appointment and dismissal of the officers and the staff, subject to the general control of the Board of Directors.

5. The President and the Vice-President shall be persons possessing extensive experience in matters relating to finance and development in the public or private sector.

6. In appointing the officers and staff, the President shall, subject to the paramount importance of securing the highest standards of efficiency and technical competence, pay due regard to the recruitment of personnel on as equitable a geographical basis as possible.

Article 34
The Vice-President

1. A Vice-Presidents shall be appointed by the Board of Directors on the recommendation of the President. The Vice-President shall hold office for such term, exercise such authority and perform such functions in the administration of the Bank as may be determined by the Board of Directors. In the absence or incapacity of the President, or while that office is vacant, the Vice-President shall exercise the authority and perform the functions of the President.

2. The Vice-President may participate in meetings of the Board of Directors but shall have no vote at such meetings, except that the Vice-President shall cast the deciding vote when acting in place of the President.

Article 35
International Character of the Bank:
Prohibition of Political Activity

1. The Bank shall not accept loans or assistance that may in any way prejudice or otherwise alter its purpose or functions.

2. The Bank, its President, Vice-President, officers and staff shall not interfere in the political affairs of any member, nor shall they be influenced in their decisions by the political character of the member concerned. Only economic considerations relevant to the purpose and functions of the Bank shall be brought to bear upon their decisions. Such considerations shall be weighed impartially in order to achieve and carry out the purpose and functions of the Bank.

3. The President, Vice-President, officers and staff of the Bank, in the discharge of their offices, owe their duty entirely to the Bank and to no other authority. Each member of the Bank shall respect the international character of this duty and shall refrain from all attempts to influence any of them in the discharge of their duties.

Article 36
Office of the Bank

1. The principal office of the Bank shall be located in Barbados.

2. The Bank may establish agencies or branch offices elsewhere.

Article 37
Channel of Communications, Depositories

1. Each member shall designate an appropriate official entity with which the Bank may communicate in connection with any matter arising under this Agreement.

2. Each member shall designate its central bank, or such other institution as may be agreed upon with the Bank, as a depository with which the Bank may keep any of its holdings of the currency of that member as well as other assets of the Bank.

Article 38
Official Language and Reports

1. The official language of the Bank shall be English.

2. The Bank shall transmit to members an Annual Report containing an audited statement of its accounts and shall publish such Report. It shall also transmit quarterly to its members a summary statement of its financial position and a profit and loss statement showing the results of its operations.

3. The Bank may also publish such other reports as it deems desirable in the carrying out of its purpose and functions. Such reports shall be transmitted to the members of the Bank.

4. The accounts of the Bank shall be audited by external auditors of high international standing selected by the Board of Governors.

Article 39
Allocation of Net Income

1. The Board of Governors shall determine at least annually the disposition of the net income of the Bank arising from its ordinary operations and what portion thereof, if any, shall be allocated, after making provision for reserves or other purposes, to surplus, and what portion, if any, shall, notwithstanding the provisions of Article 12, be allocated to any special fund, including the Special Development Fund, or distributed to the members.

2. The Board of Governors shall determine at least annually the disposition of the net income of the Bank arising from its special operations, subject to any rules or regulations governing each special fund and any agreement relating thereto.

3. Any distribution of net income under paragraph 1 of this Article shall be made to each member in the proportion which the total payments made by that member under paragraph 2(a) of Article 7 and the average amount of loans outstanding during the year made out of currency corresponding to its subscription under paragraph 2(b) of Article 7 bears to the total of such amounts for all members.

4. Payments shall be made in such manner and in such currency as the Board of Governors shall determine.

CHAPTER VII - WITHDRAWAL AND SUSPENSION OF MEMBERS:

TEMPORARY SUSPENSION AND TERMINATION OF OPERATIONS OF THE BANK

Article 40
Withdrawal

1. Any member may withdraw from the Bank at any time by delivering a notice in writing to the Bank at its principal office.

2. Withdrawal by a member shall become effective, and its membership shall cease, on the date specified in its notice, but in no event less than six (6) months after the date that notice has been received by the Bank. However, at any time before the withdrawal becomes effective, the member may notify the Bank in writing of the cancellation of its notice of intention to withdraw.

3. A member which has given notice of its withdrawal from the Bank shall remain liable for all direct and contingent obligations to the Bank to which it was subject at the date of delivery of the withdrawal notice. If the withdrawal becomes effective, the member shall not incur any liability for obligations resulting from operations of the Bank effected after the date on which the notice of withdrawal was received by the Bank.

Article 41
Suspension of Membership

1. If a member fails to fulfil any of its obligations to the Bank, the Board of Governors may suspend such member by a vote of not less than two-thirds of the total number of the governors of other members representing not less than three-fourths of the total voting power of the other members. The member concerned shall have no vote.

2. The member so suspended shall automatically cease to be a member of the Bank one (1) year from the date of its suspension unless the Board of Governors, during that period, decides by the same majority necessary for suspension to restore the member to good standing.

3. While under suspension, a member shall not be entitled to exercise any rights under this Agreement, except the right of withdrawal, but shall remain subject to all its obligations.

Article 42
Settlement of Accounts

1. After the date on which a State or Territory ceases to be a member, that former member shall remain liable for its direct obligations to the Bank and for its contingent

liabilities to the Bank so long as any part of the loans or guarantees contracted before it ceased to be a member is outstanding; but it shall not incur liabilities with respect to loans and guarantees entered into thereafter by the Bank nor share either in the income or the expenses of the Bank.

2. At the time a State or Territory ceases to be a member, the Bank shall arrange for the repurchase of such member's shares by the Bank as a part of the settlement of accounts with such member in accordance with the provisions of paragraphs 3 and 4 of this Article. For this purpose, the repurchase price of the shares shall be the value shown by the books of the Bank on the date of cessation of membership.

3. The repayment for shares repurchased by the Bank under this Article shall be governed by the following conditions:

(a) Any amount due to the member concerned for its shares shall be withheld so long as that member, its central bank or any of its political sub-divisions or agencies remains liable, as borrower or guarantor, to the Bank and such amount may, at the option of the Bank, be applied on any such liability as it matures. No amount shall be withheld on account of the contingent liability of the member for future calls on its subscription for shares in accordance with paragraph 6 of Article 7. In any event, no amount due to a member for its shares shall be paid until six (6) months after the date on which its membership ceases.

(b) Payments for shares may be made from time to time, upon their surrender by the former member concerned, to the extent by which the amount due to the repurchase price in accordance with paragraph 2 of this Article exceeds the aggregate amount of liabilities on loans and guarantees referred to in sub-paragraph (a) of this paragraph, until the former member has received the full repurchase price.

(c) Payments shall be made in such available currencies as the Bank determines, taking into account its financial position.

(d) If losses are sustained by the Bank on any guarantees or loans which were outstanding on the date of cessation of membership and the amount of such losses exceeds the amount of the reserve provided against losses on that date, the former member concerned shall repay, upon demand, the amount by which the repurchase price of its shares would have been reduced if the losses had been taken into account when the repurchase price was determined. In addition, the former member shall remain liable on any call for unpaid subscriptions in accordance with paragraph 6 of Article 7, to the same extent that it would have been required to respond if the impairment of capital had occurred and the call had been made at the time the repurchase price of its shares was determined.

4. If the Bank terminates its operations pursuant to Article 44 within six (6) months of the date upon which the membership of any member ceases, all rights of the member concerned shall be determined in accordance with the provisions of Articles 44 to 46. That member shall be considered as still a member for purposes of such Articles but shall have no voting rights.

Article 43
Temporary Suspension of Operations

In an emergency, the Board of Directors may temporarily suspend operations in respect of new loans and guarantees, pending an opportunity for further consideration and action by the Board of Governors.

Article 44
Termination of Operations

1. The Bank may terminate its operations by resolution of the Board of Governors approved by a vote of not less than two-thirds of the total number of governors representing not less than three-fourths of the total voting power of the members.

2. After such termination, the Bank shall forthwith cease all activities, except those incident to the orderly realization, conservation and preservation of its assets and settlement of its obligations.

Article 45
Liability of Members and Payment of Claims

1. In the event of termination of the operations of the Bank, the liability of all members for uncalled subscriptions to the capital stock of the Bank and in respect of the depreciation of their currencies shall continue until all claims of creditors, including all contingent claims, shall have been discharged.

2. All creditors holding direct claims shall first be paid out of the assets of the Bank and then out of payments to the Bank on unpaid or callable subscriptions. Before making any payments to creditors holding direct claims, the Board of Directors shall make such arrangements as are necessary, in its judgement, to ensure a *pro rata* distribution among holders of direct and contingent claims.

Article 46
Distribution of Assets

1. No distribution of assets shall be made to members on account of their subscriptions to the capital stock of the Bank until all liabilities to creditors shall have been discharged or provided for. Moreover, such distribution must be approved by the Board of Governors by a vote of not less than two-thirds of the total number of governors representing not less than three-quarters of the total voting power of the members.

2. Any distribution of the assets of the Bank to the members shall be in proportion to the capital stock held by each member and shall be effected at such times and under such conditions as the Bank shall deem fair and equitable. The shares of assets distributed need not be uniform as to type of assets. No member shall be entitled to receive its share in such a distribution of assets until it has settled all its obligations to the Bank.

3. Before any distribution of assets is made the Board of Directors shall value the assets to be distributed as at the date of distribution and then proceed to distribute in the following manner:

(i) There shall be paid to each member in its own obligations or those of its official agencies or legal entities within its territories, insofar as they are available for distribution, an amount equivalent in value to its proportionate share of the total amount to be distributed.

(ii) Any balance due to a member after payment has been made under (i) above shall be paid, in its own currency, insofar as it is held by the Bank, up to an amount equivalent in value to such balance.

(iii) Any balance due to a member after payment has been made under (i) and (ii) above shall be paid in gold or currency acceptable to the member, insofar as they are held by the Bank, up to an amount equivalent in value to such balance.

(iv) Any remaining balance due to a member after payment has been made under (i), (ii), and (iii) shall be satisfied out of the remaining assets held by the Bank.

4. Any member receiving assets distributed pursuant to this Article shall enjoy the same rights with respect to such assets as the Bank enjoyed before their distribution.

CHAPTER VIII - STATUS, IMMUNITIES, EXEMPTIONS AND PRIVILEGES

Article 47
Purpose of Chapter

To enable the Bank effectively to fulfil its purpose and carry out the functions entrusted to it, the status, immunities, exemptions and privileges set forth in this Chapter shall be accorded to the Bank in the territory of each member.

Article 48
Legal Status

1. The Bank shall possess full juridical personality and, in particular, full capacity:

(a) to contract;

(b) to acquire, and dispose of, immovable and movable property; and

(c) to institute legal proceedings.

2. The Bank may enter into agreements with members, non-member States and other international organizations.

Article 49
Legal Process

1. The Bank shall enjoy immunity from every form of legal process, except in cases arising out of or in connection with the exercise of its powers to borrow money, to guarantee obligations, or to buy and sell or underwrite the sale of securities, in which cases actions may be brought against the Bank in a court of competent jurisdiction in

the territory of a member in which the Bank has its principal or a branch office, or in the territory of a member or non-member State where it has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities.

2. Notwithstanding the provisions of paragraph 1 of this Article, no action shall be brought against the Bank by any member, or by any agency of a member, or by any entity or person directly or indirectly acting for or deriving claims from a member. Members shall have recourse to such special procedures for the settlement of disputes between the Bank and its members as may be provided for in this Agreement, in by-laws and regulations of the Bank, or in contracts entered into with the Bank.

3. The Bank shall also make provision for appropriate modes of settlement of disputes in cases which do not come within the provisions of paragraph 2 of this Article and which are subject to the immunity of the Bank by virtue of paragraph 1 of that Article.

4. The Bank and its property and assets, wheresoever located and by whomsoever held, shall be immune from all forms of seizure, attachment or execution before the delivery of final judgement against the Bank.

Article 50
Immunity of Assets

Property and assets of the Bank, wheresoever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

Article 51
Immunity of Archives

The archives of the Bank and, in general, all documents, belonging to it, or held by it, shall be inviolable, wherever located.

Article 52
Freedom of Assets From Restrictions

To the extent necessary to carry out the purpose and functions of the Bank effectively and subject to the provisions of this Agreement, the Bank

(a) may hold assets of any kind and operate accounts in any currency; and

(b) shall be free to transfer its assets from one country to another or within any country and to convert any currency held by it into any other currency,

without being restricted by financial controls, regulations or moratoria of any kind.

Article 53
Privilege for Communications

Official communications of the Bank shall be accorded by each member treatment not less favourable than that it accords to the official communications of any other member.

Article 54
Immunities and Privileges of Bank Personnel

All governors, directors, alternates, officials and employees of, and experts performing missions for, the Bank:

(a) shall be immune from legal process with respect to acts performed by them in their official capacity;

(b) where they are not local citizens or nationals, shall be accorded such immunities from immigration restrictions, alien registration requirements and national service obligations, and such facilities as regards exchange regulations, as are not less favourable than those accorded by the member concerned to the representatives, officials and employees of comparable rank of any other member; and

(c) shall be given such repatriation facilities in time of international crisis as are not less favourable than those accorded by the member concerned to the representatives, officials and employees of comparable rank of any other member.

Article 55
Exemption From Taxation

1. The Bank, its assets, property, income and its operations and transactions, shall be exempt from all direct taxation and from all customs duties on goods imported for its official use.

2. Notwithstanding the provisions of paragraph 1 of this Article, the Bank will not claim exemption from taxes which are no more than charges for public utility services.

3. The Bank will not normally claim exemption from excise duties, and from taxes on the sale of movable and immovable property, which form part of the price to be paid. Nevertheless, when the Bank is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, members will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

4. Articles imported under an exemption from customs duties as provided by paragraph 1 of this Article, or in respect of which a remission or return of duty or tax has been made under paragraph 3, shall not be sold in the territory of the member which granted the exemption, remission or return except under conditions agreed with that member.

5. No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to directors, alternates, officers or employees of the Bank, including experts performing missions for the Bank, but members reserve the right to tax their own citizens or nationals or persons permanently resident in the territories of such members.

6. No tax of any kind shall be levied on any obligation or security issued by the Bank, including any dividend or interest thereon, by whomsoever held -

(a) which discriminates against such obligation or security solely because it is issued by the Bank; or

(b) if the sole jurisdictional basis for such taxation is the place or the currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

7. No tax of any kind shall be levied on any obligation or security guaranteed by the Bank, including any dividend or interest thereon, by whomsoever held -

(a) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or

(b) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.

Article 56
Implementation

Each member shall promptly inform the Bank of the action which it has taken to make effective the provisions of this Chapter in its territory.

Article 57
Waiver of Immunities, Exemptions and Privileges

The immunities, exemptions and privileges provided in this Chapter are granted in the interests of the Bank. The Board of Directors may waive to such extent and upon such conditions as it may determine, the immunities, exemptions and privileges provided in this Chapter in cases where such action would, in its opinion, be appropriate in the best interests of the Bank. The President shall have the right and the duty to waive any immunity, exemption or privilege in respect of any officer or employee of, or any expert performing a mission for, the Bank where, in his opinion, the immunity, exemption or privilege would impede the course of justice and can be waived without prejudice to the interests of the Bank. In similar circumstances and under the same conditions, the Board of Directors shall have the right and duty to waive any immunity, exemption or privilege respecting the President and the Vice-President.

CHAPTER IX

AMENDMENTS, INTERPRETATION, ARBITRATION

Article 58
Amendments

1. This Agreement may be amended only by a resolution of the Board of Governors adopted by a vote of not less than two-thirds of the total number of governors representing not less than three-fourths of the total voting power of the members.

2. Notwithstanding the provisions of paragraph 1 of this Article, the unanimous agreement of the Board of Governors shall be required for the adoption of any amendment modifying:

(a) the right to withdraw from the Bank;

(b) the limitations on liability provided in paragraphs 7 and 8 of Article 6; and

(c) the rights pertaining to the subscriptions of capital stock provided in paragraph 3 of Article 6.

3. Any proposal to amend this Agreement, whether emanating from a member or from the Board of Directors, shall be communicated to the Chairman of the Board of Governors, who shall communicate the proposal to each member and then bring it before the Board of Governors. When an amendment has been adopted, the Bank shall certify it in a formal communication addressed to all members. Amendments shall enter into force for all members three (3) months after the date of the formal communication unless the Board of Governors specifies therein a different period.

4. The foregoing provisions of this Article shall be subject to the terms of the Protocol annexed hereto which shall have effect only for the purposes and during the meeting specified therein.

Article 59
Interpretation and Application

1. Any question of interpretation or application of the provisions of this Agreement not otherwise expressly provided for shall be submitted to the Board of Directors for decision. A member particularly affected by the question under consideration shall have the right to make direct representation to the Board of Directors at the meeting of the Board at which the question is considered. Such right shall be regulated by the Board of Governors.

2. In any case where the Board of Directors has given a decision under paragraph 1 of this Article, any member may require that the question be referred to the Board of Governors, whose decision shall be final. Pending the decision of the Board of Governors, the Bank may, so far as it deems it necessary, act on the basis of the decision of the Board of Directors.

Article 60
Arbitration

If a dispute should arise between the Bank and a State or Territory which ceases to be a member, or between the Bank and any member after adoption of a resolution to terminate the operations of the Bank, such dispute shall be submitted to arbitration by a tribunal of three arbitrators. Each party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint the third, who shall be the Chairman. If within thirty days of the request for arbitration either party has not appointed an arbitrator or if within fifteen days of the appointment of two arbitrators the third arbitrator has not been appointed, either party may request the President of the International Court of Justice, or such other authority as may have been prescribed by regulations adopted by the Board of Governors, to appoint an arbitrator. The procedure of the arbitration shall be fixed by the arbitrators. However, the third arbitrator shall be empowered to settle all questions of procedure in any case of disagreement with respect thereto. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding upon the parties.

Article 61
Approval Deemed Given

Whenever the approval of any member is required before any act may be done by the Bank, approval shall be deemed to have been given unless the member presents an objection within such reasonable period as the Bank may fix when notifying the member of the proposed act.

CHAPTER X
FINAL PROVISIONS

Article 62
Signature and Deposit

1. This Agreement shall be deposited with the Secretary-General of the United Nations (hereinafter called the "Depositary") and shall remain open until 14 November, 1969 for signature by the Governments listed in Annex A to this Agreement.

2. In the case of Territories in the region which are not fully responsible for the conduct of their international relations and where the Government of the State responsible for the conduct of the international relations of the Territory does not sign, ratify, or accede to this Agreement on its behalf, such Territory shall at the time of signing or acceding to this Agreement in pursuance of Article 63 present an instrument issued by the Government of the State responsible for the conduct of the international relations of that Territory confirming that the latter has authority to conclude this Agreement and to assume rights and obligations under it.

3. The Depositary shall transmit certified copies of this Agreement to all the signatories and other States and Territories which become members of the Bank.

Article 63
Ratification, Acceptance, Accession and Acquisition of Membership

1. (a) This Agreement shall be subject to ratification or acceptance by the signatories. Instruments of ratification or acceptance shall be deposited by the signatories with the Depositary before 30 April 1970. The Depositary shall notify the other signatories of each deposit and the date thereof.

   (b) A signatory whose instrument of ratification or acceptance is deposited on or before the date on which this Agreement enters into force, shall become a member of the Bank on that date, and a signatory whose instrument of ratification or acceptance is deposited after that date, but before 30 April 1970, shall become a member on the date of deposit of its instrument of ratification or acceptance.

2. After 30 April 1970 a State or Territory may become a member of the Bank by accession to this Agreement on such terms as the Board of Governors shall determine

in accordance with paragraph 3 of Article 3. Any such State or Territory shall deposit, on or before a date appointed by the Board, an instrument of accession with the Depositary who shall notify such deposit and the date thereof to the Bank and to the parties to this Agreement. Upon such deposit, the State or Territory shall become a member of the Bank on the appointed date in accordance with that paragraph.

3. A member may, when depositing its instrument of ratification or acceptance, declare that in its territory the immunity conferred by paragraph 1 of Article 49 and sub-paragraph (a) of Article 54 shall not apply in relation to a civil action arising out of an accident caused by a motor vehicle belonging to the Bank or operated on its behalf or to a traffic offence committed by the driver of such a vehicle.

The member may also declare that the privilege conferred by Article 53 shall be restricted in its territory to treatment not less favourable than the member accords to international financial institutions of which it is a member, and that the exemption referred to in paragraph 6(b) of Article 55 shall not extend to any bearer instrument issued by the Bank in its territory or issued elsewhere by the Bank and transferred in its territory.

Article 64
Entry Into Force

This Agreement shall enter into force upon the deposit of instruments of ratification or acceptance by eight (8) signatories, including at least one non-regional State, whose initial subscriptions, as set forth in Annex A to this Agreement, in aggregate comprise not less than sixty (60) percent of the authorized capital stock of the Bank, provided that 1st December 1969 shall be the earliest date on which this Agreement may enter into force.

Article 65
Inaugural Meeting

As soon as this Agreement enters into force, each member shall appoint a governor, and the Secretary-General of the Commonwealth Caribbean Regional Secretariat shall call the inaugural meeting of the Board of Governors.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Agreement.

DONE AT Kingston, Jamaica, this eighteenth day of October, one thousand nine hundred and sixty-nine.

ANNEX A

STATES AND TERRITORIES WHICH MAY BECOME MEMBERS IN ACCORDANCE WITH PARAGRAPH 2 OF ARTICLE 3, AND THEIR INITIAL SUBSCRIPTIONS TO THE AUTHORIZED CAPITAL STOCK.

(ARTICLE 6, PARAGRAPH 1)

CATEGORY A - REGIONAL STATES AND TERRITORIES

.....

CATEGORY B - NON-REGIONAL STATES

.....

ANNEX B

SELECTION OF DIRECTORS

PART I - PRINCIPLES FOR THE SELECTION OF DIRECTORS REPRESENTING REGIONAL MEMBERS

Of the five (5) directors to be selected pursuant to paragraph 1(a) (i) of Article 29:

(a) one (1) director shall be selected by each of the governors representing the two (2) regional members having the largest number of shares of the capital stock of the Bank;

(b) three (3) shall be selected by the Governors representing the other regional members.

PART II - SELECTION OF DIRECTORS PENDING ADOPTION OF THE RULES OF PROCEDURE

1. Regional Members:
   (a) one (1) director shall be selected by the governor representing Jamaica;
   (b) one (1) director shall be selected by the governor representing Trinidad and Tobago;
   (c) one (1) director shall be selected jointly by the governors representing Guyana and Barbados;
   (d) one (1) director shall be selected jointly by the governors representing ....., ..., ... and .....; and
   (e) one (1) director shall be selected jointly by the governors representing ....., ..., ... and ..... .
2. Non-Regional Members:
   (a) one (1) director shall be selected by the governor representing Canada; and
   (b) one (1) director shall be selected by the governor representing the United Kingdom.

PROTOCOL TO PROVIDE FOR PROCEDURE FOR AMENDMENT OF ARTICLE 36 OF THE AGREEMENT ESTABLISHING THE CARIBBEAN DEVELOPMENT BANK AT THE INAUGURAL MEETING OF THE BOARD OF GOVERNORS

The States and Territories parties to the Agreement establishing the Caribbean Development Bank (hereinafter referred to as "the Agreement") hereby agree that notwithstanding the provisions of Article 58 of the Agreement, paragraph 1 of Article 36 of the Agreement may be amended at the Inaugural Meeting of the Board of Governors of the Caribbean Development Bank by a Resolution (on a motion which shall not be subject to amendment and moved by the Governor for Jamaica) approved by the vote of a simple majority of the governors present and voting thereon representing more than one-half of the voting powers of the governors present and voting thereon.

7

THE CARIBBEAN EXAMINATIONS COUNCIL

The same spirit of self-confidence which nurtured the initiative to establish the University of the West Indies, invigorated moves for autonomy of decision in economic and political matters and argued vigorously and persuasively for an indigenous jurisprudence having relevance for the Region, also inspired the decision to establish a Caribbean Examinations Council. At the Second Heads of Government Conference of Commonwealth Caribbean Countries held in Jamaica in January 1964, the decision was made to establish the Caribbean Examinations Council (CXC) as a fit and proper subject for cooperation.

One of the most satisfying dimensions of this initiative was its comprehensive sweep. Initially every Commonwealth Caribbean country or territory was on board. Signatories to the Agreement were representatives of the Governments of Antigua, Bahamas, Barbados, Belize, British Virgin Islands, Cayman Islands, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts-Nevis-Anguilla, St. Lucia, St. Vincent, Trinidad and Tobago and the Turks and Caicos islands. Other territories of the Caribbean were also entitled to participate in the Council which consisted of the Vice Chancellor of the University of the West Indies, the Vice Chancellor of the University of Guyana, three representatives of the University of the West Indies appointed by the Vice Chancellor, one representative of the University of Guyana appointed by its Vice Chancellor, two representatives each appointed by the participating Governments of Barbados, Guyana, Jamaica and Trinidad and Tobago, and one representative each by the other participating Governments and one representative each appointed by the National Committees from among its members.

The powers of the Council include appointment of a Registrar and such other persons as may be necessary for the performance of its functions; delegating to the Registrar certain duties including the appointment of specified persons; fixing the salaries and determining conditions of service of the Registrar and other specified persons; delegating to the School Examinations Committee and the Administrative and Finance Committee such powers as may be necessary; regulating the conduct of specified examinations and prescribing the qualification requirements of candidates and the fees payable by them; borrowing such sums of money as may be considered necessary or expedient and making rules generally for the purpose of the Agreement. The funds of the Council include charges, dues and fees received by the Council; monies provided by participating Governments for the Council; interest on monies invested by the Council and all monies accruing to the Council by way of endowment donation or otherwise.

Expenditures of the Council are apportioned among participating Governments on an agreed basis. Funds of the Council are applied for the achievement of its purposes.

Two important bodies of the Council are the National Committee and the School Examinations Committee. The National Committee consists of representatives of the Ministries/Departments of Education, the Teaching Profession, Universities and the general community. The National Committee exercises such powers of the Council as may be delegated to it and advises the Council on such mattes as the content of syllabuses, the appointment of examiners and other matters connected with examinations conducted by the Council. The School Examinations Committee comprises the Chairman of the Council or his deputy who shall be the Chairman, four representatives of the Universities, one technical/administrative officer selected by each participating Government's Ministry/Department of Education and one member of the teaching profession nominated by each National Committee. The functions of the School Examinations Committee include establishment of regulations relating to the conduct of examinations, development of syllabuses, consideration of criticisms from schools and points raised by examiners in their reports, making recommendations about the appointment of examiners and advising the Council on matters relating to examinations. The Sub-Committee of the School Examinations Committee and the Administration and Finance Committee also contribute significantly to the Council's work.

During the last 25 years, the Council has grown into a truly regional and multi-faceted institution for the promotion of learning. The Council has established itself internationally as an examination body which espouses, establishes and maintains high standards in syllabus development, examination administration and marking and in the certification it provides. The Council employs its in-house expertise to provide technical assistance and consultancy services to the public and private sectors in the Region. These services include the development of syllabuses, the preparation and administration of national examinations, training in school-based assessment and other aspects of evaluation and measurement. At present, CXC provides examination and certification at the secondary and post-secondary levels. The Caribbean Secondary Education Certificate (CSEC) is offered for students at the end of the secondary education cycle. The Caribbean Advanced Proficiency Examination (CAPE) is offered for post-secondary students who require certification and advanced standing.

The Council possesses in the jurisdiction of participating Governments full juridical personality including the capacity to contract, acquire and dispose of moveable and immoveable property, and to institute legal proceedings. The administrative headquarters of the Council are in Barbados but the Council has established operational centres in Jamaica, Guyana, Trinidad and Tobago and elsewhere in the territory of participating Governments. The immunities and privileges to be recognised and granted by host governments are to be set out in appropriate agreements concluded with them and the Council. Privileges and immunities accorded by other Participating Governments to the Council are set out in a Protocol to the Agreement.

AGREEMENT ESTABLISHING THE CARIBBEAN EXAMINATIONS COUNCIL

The participating governments:

Recognising the decision of the second Conference of Heads of Government of Commonwealth Caribbean Countries held in Jamaica in January 1964, that the setting up of a Caribbean Examinations Council was a fit and proper subject for regional cooperation;

Conscious of the need for the institution of a new system of examinations for the Area under the aegis of the Conference;

Have agreed as follows:

Article I
Interpretation

In this Agreement, unless the context otherwise requires -

"Area" means the following Territories the Governments of which are Participating Governments -

(a)
Antigua	Guyana
Bahamas	Jamaica
Barbados	Montserrat
Belize	St. Kitts-Nevis-Anguilla
British Virgin Islands	St. Lucia
Cayman Islands	St. Vincent
Dominica	Trinidad and Tobago
Grenada	Turks and Caicos Islands;

and

(b) any other Territory in the Caribbean;

"Article" means an Article of this Agreement;

"Council" means the Caribbean Examinations Council established by Article II;

"National Committee" means a Committee established under Article IX;

"Participating Governments" means the Governments which are from time to time parties to this Agreement;

"School Examinations Committee" means the School Examinations Committee appointed by the Council in accordance with Articles IV and X.

Article II
Establishment and Constitution

1. The Council is hereby established and shall consist of the following members:
   (a) The Vice-Chancellor of the University of the West Indies;
   (b) The Vice-Chancellor of the University of Guyana;

(c) (i) Three representatives of the University of the West Indies appointed by the Vice-Chancellor of the University of the West Indies regard being given to the geographical dispersion of the campuses;

(ii) One representative of the University of Guyana appointed by the Vice-Chancellor of the University of Guyana;

(d) (i) Two representatives appointed by each of the Participating Governments of Barbados, Guyana, Jamaica and Trinidad and Tobago and one representative appointed by each of the other Participating Governments;

(ii) One representative of the teaching profession appointed by each National Committee from among its members.

2. (a) A member of the Council appointed under paragraph 1(c) and (d) of this Article shall subject to paragraph 3 of this Article hold office for a period of three years.

(b) Any such member may at any time resign his office by notice in writing addressed to the appointing authority and his resignation shall take effect upon the receipt of such notice by the Chairman from the appointing authority.

(c) The appointing authority may make another appointment for the unexpired term of office of the person who resigned.

3. A member of the Council referred to in paragraph 2 of this Article may be removed from office by the appointing authority and another person may be appointed for the unexpired term.

4. If any member of the Council is for the time being unable to act, the appointing authority may appoint a person to act in his place during such inability.

5. (a) The Council shall elect a Chairman from among its members, the Chairman for the first term being a Vice-Chancellor.

(b) The Chairman shall hold office for three years and shall be eligible for re-election. If, however, he resigns his office before the expiration of his term, the Chairman elected in his place shall hold office for the unexpired term.

(c) The Council shall elect one of its members to be Deputy Chairman who shall hold office for such time not being more than his unexpired term as the Council may determine.

6. The Chairman and members of the Council shall be paid such remuneration and allowances as may from time to time be determined by the Council.

Article III
Headquarters

1. The Council shall have its administrative Headquarters in Barbados.

2. The Council shall establish other administrative and operational centres in Guyana, Jamaica and Trinidad and Tobago and may, if it considers it desirable, establish such centres elsewhere in the Area.

3. The Council may conclude with Participating Governments agreements relating to the legal capacity, privileges and immunities to be recognised and granted to it in respect of its Headquarters and other administrative and operational centres.

Article IV
Duties

The Council shall:

(a) conduct such examinations as it may think appropriate and award certificates and diplomas on the results of examinations so conducted;

(b) review and consider annually its examinations held in any territory of the Area and remit to each Participating Government:

  (i) an analysis of data on the performance of candidates classified by subject and territory;

  (ii) a digest of submissions from National Committees along with such other information as may be considered necessary;

  (iii) an annual report of the Council's activities;

(c) consider, having regard to standards, the advisability of inviting and, if thought fit, invite any other examining Body to conduct examinations in the Area and award certificates and diplomas on the results of such examinations, advise any Body so invited on such adaptation of the examinations as the Council may think necessary and generally assist any Body so invited in the conduct of such examinations in the Area;

(d) appoint a School Examinations Committee in accordance with Article X;

(e) appoint from among its members an Administrative and Finance Committee which shall include a representative from each of the Participating Governments of Barbados, Guyana, Jamaica and Trinidad and Tobago and four representatives from the other Participating Governments;

(f) receive from any National Committee or other committee established under this Agreement reports and recommendations on any matters relevant to the purposes of the Council and consider such reports and recommendations;

(g) on the invitation of any Government in the Caribbean conduct any examinations which the Council considers feasible.

Article V
General Powers

The Council shall have power to:

(a) appoint a Registrar and such other persons as may be necessary for the performance of its duties;

(b) delegate to the Registrar:

(i) any of the duties specified in paragraphs (a), (c) and (g) of Article IV as relate to the holding of examinations; and

(ii) the making of appointments of other persons mentioned in paragraph (a) of this Article;

(c) fix the salaries and determine the terms and conditions of service including the provision of superannuation benefits of the Registrar and persons referred to in paragraph (a) of this Article;

(d) delegate to the School Examinations Committee such powers as may be necessary;

(e) delegate to the Administrative and Finance Committee such powers as may be necessary;

(f) appoint such other Committees as the Council may consider necessary for the performance of its duties;

(g) regulate the conduct of any examinations conducted under the provisions of paragraph (a), (c) and (g) of Article IV and prescribe the qualification requirements of candidates and the fees payable by them;

(h) co-opt any person to assist in the work of the Council so, however, that no such person shall be or be deemed to be a member of the Council;

(i) borrow such sums as it may consider necessary or expedient;

(j) invest the funds of the Council in such manner and to such extent as it may consider necessary or expedient giving priority to investment in financial institutions in the Area controlled by the people of the Area or by Participating Governments or in securities issued or guaranteed by such Governments;

(k) authorise in writing any of its members to discharge any of its functions;

(l) make rules generally for the purposes of this Agreement.

Article VI
Procedural Arrangements

1. The Council shall ordinarily meet for the despatch of business at such times and places as the Council may from time to time appoint but at least one meeting shall be held in each year.

2. The Chairman may call a special meeting of the Council at such time and place as he may appoint, and shall on the written request of six members of the Council call a meeting to be held within twenty-one days after the receipt of the request for the meeting.

3. Any such special meeting shall be convened at not less than fourteen days' notice.

4. At every meeting of the Council the Chairman, if present, shall preside; in his absence the Deputy Chairman shall preside; and in the absence of both the Chairman and the Deputy Chairman, the members of the Council present shall elect one of their number to preside.

5. Decisions of the Council and of the School Examinations Committee and of the Administrative and Finance Committee shall be taken on the majority vote of all the members present.

6. A quorum of the Council or of the School Examinations Committee or of the Administrative and Finance Committee shall be constituted by one half of the respective total membership.

7. The member of the Council presiding at a meeting of the Council shall, in addition to an original vote, have a casting vote in any case where the voting is equal.

Article VII
Financial Arrangements

1. The funds of the Council shall include:
   (a) all charges, dues and fees received by the Council;
   (b) such monies as are provided for the Council by the Participating Governments;
   (c) all interest on monies invested by the Council;
   (d) all monies accruing to the Council by way of endowment, donation or otherwise.

2. The funds of the Council shall be applied towards the accomplishment of its purposes.

3. The expenditure of the Council shall be apportioned among the Participating Governments on such basis as may be agreed upon by them.

4. All sums of money received on account of the Council shall be paid into such bank or banks as may be approved by the Council.

5. (a) The Council shall cause to be kept proper accounts of its financial and other business transactions and shall cause to be prepared not later than three months after the end of each financial year:
      (i) a statement showing in detail the items of income and expenditure of the Council and the total of such income and expenditure for the immediately preceding financial year;
      (ii) a statement of the assets and liabilities of the Council as they stood at the end of the immediately preceding financial year.
   (b) Such statements shall be audited by an Auditor appointed by the Council and as soon as may be thereafter a copy of each such statement as audited shall be transmitted to each Participating Government.

Article VIII
Legal Capacity

1. The Council shall possess full juridical personality and in particular full capacity to:
   (a) contract;

(b) acquire and dispose of immovable and movable property;

(c) institute legal proceedings.

2. The legal capacity, privileges and immunities to be recognised and granted by Participating Governments in connection with the Council shall be laid down in a Protocol to this Agreement.

Article IX
National Committees

1. A National Committee shall be established by each Participating Government for and in its Territory.

2. A National Committee shall comprise representatives of a Ministry or Department of Education, the Teaching Profession, the Universities in the Area and the general community.

3. The Chairman of a National Committee shall be appointed by the Participating Government from among the members of that National Committee.

4. A member of a National Committee shall hold office for such number of years as may be specified in his letter of appointment and shall be eligible for re-appointment.

5. It shall be the duty of every National Committee -

(a) to exercise such powers as the Council may from time to time delegate to it; and

(b) to advise the Council on any matter on which advice may be sought including the content of the syllabuses, the appointment of examiners and any other matter connected with examinations conducted by the Council.

6. A National Committee may make a report or recommendations to the Council on any matter relevant to the provision of this Agreement.

7. A National Committee may appoint from among its members such sub-committee as it thinks fit and shall specify the duties of such sub-committee.

8. A National Committee shall have the power to co-opt any person to assist it in its work, so, however, that no such person shall be or be deemed to be a member of the Committee.

Article X
School Examinations Committee

1. The School Examinations Committee shall consist of:

(a) the Chairman of the Council or his Deputy who shall be the Chairman;

(b) four members who shall be representatives of the Universities of the Area;

(c) one technical or administrative officer selected by each Participating Government from its Ministry or Department of Education;

(d) one member of the teaching profession nominated by each National Committee.

2. The duties of the School Examinations Committee shall include:

(a) preparation for the approval of Council of regulations relating to the conduct of examinations;

(b) development of syllabuses through sub-committees or subject-panels;

(c) consideration of criticisms from schools;

(d) consideration of points raised by examiners in their reports on examinations and by other means;

(e) appointment of members of various sub-committees and subject-panels;

(f) the making of recommendations relating to the appointment of examiners;

(g) advising the Council on all matters relating to examinations;

(h) performing such duties as may be delegated to it by the Council.

3. The School Examinations Committee shall have power to co-opt any person to assist it in its work, so, however, that no such person shall be deemed to be a member of the Committee.

Article XI
Administrative and Finance Committee

1. The Administrative and Finance Committee may appoint a sub-committee in each Territory of the Area and may delegate to any such sub-committee such powers as it thinks fit regarding administrative and financial matters affecting that Territory.

2. Decisions of a sub-committee appointed under paragraph 1 of this Article shall be taken by a majority of votes of the members present and voting and in so far as the procedure of the meetings of any such sub-committee is not prescribed by the Council, the sub-committee may regulate its own procedure.

Article XII
Superannuation Benefits

The Council shall enter into arrangements with Participating Governments to secure the preservation of the superannuation benefits of persons seconded to the service of the Council from the service of any Participating Government.

Article XIII
Accession

1. The Government of any Caribbean Territory may accede to this Agreement on such terms and conditions as may be agreed between the Participating Governments and the acceding Government.

2. Any such terms and conditions shall be embodied in a supplementary Agreement.

Article XIV
Withdrawal

Any participating Government may withdraw from this Agreement by giving twenty-four months notice in writing to the Chairman of the Council who shall within 30 days of the receipt of such notice notify the other Participating Governments.

Article XV
Amendment

An Amendment to the provisions of this Agreement shall be submitted to the Chairman of the Council who shall within 30 days of the receipt thereof transmit the proposed amendment to each Participating Government. Such amendment shall have effect upon the acceptance thereof by all the Participating Governments within six months of the date of the Chairman transmitting the proposed amendment.

Article XVI
Entry Into Force

1. This Agreement shall be lodged with the Secretary-General of the Commonwealth Caribbean Regional Secretariat for signature and shall be subject to ratification.

2. The Agreement shall come into force upon the deposit, not later than 30th April, 1972, of instruments of ratification with the Secretary-General by any two of the Participating Governments of Barbados, Guyana, Jamaica and Trinidad and Tobago and by any four of the other Participating Governments.

Article XVII
Inaugural Meeting

As soon as the Agreement comes into force the Secretary-General, Commonwealth Caribbean Regional Secretariat, shall take the necessary steps to secure the nomination of the members of the Council referred to in Article II and to convene the Inaugural Meeting of the Council.

IN WITNESS WHEREOF the representatives of the Participating Governments being duly authorised in that behalf have executed this Agreement.

DONE at Georgetown, Guyana on the 10th day of April, 1972 in a single copy, certified copies of which shall be transmitted to all Participating Governments.

8

A WEST INDIES SHIPPING CORPORATION

The Commonwealth Caribbean spans a wide expanse of sea stretching from Belize in Central America to Guyana on the northern section of South America. Consequently the movement of goods, persons and services between the Member States concerned is a matter of critical concern for the success of any economic integration initiative. Indeed, one of the damaging omissions of the Treaty of Chaguaramas 1973 establishing the Caribbean Community and Common Market was the absence of provisions relating to transport. This omission was rectified in the Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy which contains an entire chapter on transport. The Revised Treaty expressly recognises the importance of port infrastructure as a means of moving agricultural products within the Community. For too long competent decision-makers of the Community have been complaining about the high import food bill but have failed to address the reasons for this problem. Much of the Region's import food bill is occasioned by imports of agricultural products for the tourist industry which is not integrated backwards into the regional agricultural sector. This lack of integration is due in large measure to poor post-harvest technologies to package, preserve and export perishable agricultural commodities in the Region. The relevant provisions of the Revised Treaty of Chaguaramas attempt to address this issue.

The West Indies Shipping Corporation (WISCO) was in fact the successor to the West Indies Shipping Corporation established by an identical Act enacted in 1961 by the Parliament of the defunct Federation and continued in force by relevant enactments of participating Governments including that of the United Kingdom. The participating Governments consisted of those of Antigua, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts, Nevis, Anguilla, St. Lucia, St. Vincent and Trinidad and Tobago. The purpose of WISCO was to establish, operate and maintain an orderly, adequate, regular and efficient intra-regional merchant shipping service to and from the participating states and territories. WISCO could also operate and maintain merchant shipping services to non-participating states within and outside the Caribbean. WISCO collapsed as an economic venture due largely to an insufficiency of intra-regional trade, since most of the trade of the Region was export-oriented and import-oriented from third States, and inefficient management practices, coupled with the reluctance of the participating Governments to provide resources necessary to make it an efficient international merchant shipping service. Despite its demise, WISCO's structure offers

a useful precedent for organisations of its kind and still has much relevance for the Member States of the Community today, and this consideration informs its inclusion in this work.

The capital resources of WISCO were derived from three sources - ordinary capital resources, which included issued capital; income derived from investments and other payments; loan capital resources including the issue of stock and the Special Fund. Participating Governments could guarantee the loans of WISCO either jointly or severally. The management structure of WISCO comprised a Board of Directors, a General Manager and such other officers as were considered necessary. Of its ten directors, one was appointed by Barbados and Guyana; three by Jamaica; four by Trinidad and Tobago; one jointly by Antigua, Dominica, Grenada, Montserrat, St. Kitts-Nevis-Anguilla, St. Lucia and St. Vincent. The determinations of the Board were subject to the special or general directions of the Standing Committee of Ministers responsible for Transport and which was designated an Institution of the Community by the Conference of Heads of Government. Participating Governments accorded to WISCO's Members of the Standing Committee, Directors and officials within their jurisdictions such privileges, immunities, and exemptions considered necessary to enable WISCO to effectively perform its functions.

AGREEMENT ESTABLISHING A WEST INDIES SHIPPING CORPORATION

Preamble

The participating governments;

Conscious of the need to maintain and improve the shipping service between and beyond the Member States of the Caribbean Community;

Mindful of the Resolution adopted by the Fourth Heads of Government Conference that the Commonwealth Caribbean Countries should endeavour to maintain and improve regional carriers to facilitate the movement of persons, goods and services within the Region;

Have agreed as follows:

CHAPTER I

Article 1
Establishment of Corporation

1. By this Agreement a West Indies Shipping Corporation (hereinafter referred to as "The Corporation") is established having the functions, membership and powers hereinafter specified.

2. The Corporation shall be the successor to the West Indies Shipping Corporation established by the West Indies Shipping Corporation Act 1961 enacted by the Parliament

of the former West Indies Federation and continued in force by certain other enactments of the participating Governments or the United kingdom (hereinafter referred to as the former Corporation).

Article 2
Functions

1. The Corporation shall establish, operate and maintain an orderly, adequate, regular and efficient intra-regional merchant shipping service to and from participating States.

2. The Corporation may operate and maintain merchant shipping services to non-participating States within and outside the Caribbean Region.

Article 3
Membership

1. Membership in the Corporation shall be open to -

   (a) the Countries listed in the Annex to this Agreement;

   (b) all new and Associate Members of the Caribbean Community.

2. The countries listed in the Annex, the Governments of which sign this Agreement in accordance with paragraph 1 of Article 42 and ratify the said Agreement in accordance with paragraph 1 of Article 43 shall become Members of the Corporation (hereinafter referred to as Member Countries).

3. Countries admitted as new or Associate Members to the Caribbean Community by the Conference may become Member Countries of the Corporation in accordance with Article 46 of this Agreement.

CHAPTER II

CAPITAL AND OTHER RESOURCES

Article 4
Authorised Capital

1. The authorised capital of the Corporation shall be fifty million dollars in the currency of Trinidad and Tobago. The authorised capital shall be divided into shares of one hundred dollars each in the said currency, which shall be available for subscription only by Member Countries in accordance with the provisions of Article 6.

2. The authorised capital may be increased by the Standing Committee on the recommendation of the Board of Directors.

3. The admission of a new Member Country shall entail an increase in the subscribed capital corresponding to the capital brought in by the new Member Country.

Article 5
Subscription of Shares

1. The Standing Committee shall determine -

   (a) the amount of the issued share capital of the Corporation; and

   (b) the number of shares to be subscribed for by each Member Country in the initial issue of share capital.

2. In the initial issue of share capital a number of shares equivalent in value to the interest of the Member Countries specified in paragraph 1 of the Annex in the assets of the former Corporation, which have been transferred to the Corporation, shall be issued to every such Member Country. The value of such interest shall be determined as at the date of the entry into force of this Agreement. Where a Member Country is in default of any financial obligations to the former Corporation, the Corporation shall have a lien on any shares issued by it to that Member Country in respect of the value of the interest of that Member Country in the assets of the former Corporation.

3. In the case of any subsequent issue of share capital, other than through an admission of a new Member Country, each Member Country shall have the right to subscribe, on such terms and conditions as the Standing Committee determines in consultation with the Board of Directors, to a proportion of the increase of shares equivalent to the proportion which its shares previously subscribed bears to the total subscribed shares immediately before such increase. No Member Country shall be obligated to subscribe to any part of such increase in capital.

4. Where a Member country to which shares are allotted, pursuant to paragraph 3, fails, within the period of time set by the Standing Committee, to take up those shares, or part thereof, such shares or such part thereof shall be offered to the other Member Countries in the proportion equivalent to the proportion which each Member Country's shares previously subscribed bears to the total subscribed shares.

5. All shares shall be issued at par value, unless the Board of Directors with approval of the Standing Committee, decides otherwise.

6. Liability of Member Countries on shares shall be limited to the unpaid portion of their issue price.

7. Except as provided in paragraph 6, no Member Country shall be liable, by reason only of its membership, for obligations of the Corporation.

Article 6
Payment of Subscription

1. The initial issue of share capital, other than the number of shares to be issued to certain Member Countries under paragraph 2 of Article 5, shall be subscribed and paid for by each Member Country specified in the Annex in such instalments extending over such period of time as the Board of Directors with the approval of the Standing Committee may determine.

2. Notwithstanding paragraph 1, the Board of Directors may with the approval of the Standing Committee invite Member Countries to pay up any instalments although

the date for their payment is not due in order to enable the Corporation to meet its obligations.

3. Any subsequent issue of share capital may be subscribed and paid for by Member Countries by such instalments and within such period of time as the Board of Directors after consultation with the Member Countries who are subscribers to the subsequent issue may determine.

4. The Corporation shall determine the place for any payments under this Article, provided that until the inaugural meeting of the Board of Directors the payment of the first instalment referred to in paragraph 1 of this Article shall be made to the Government of Trinidad and Tobago as trustees of the Corporation.

Article 7
Special Fund

1. A Special Fund to be known as the Shipping Finance Fund is hereby established into which the Corporation shall receive contributions from the Member Countries.

2. Subject to the provisions of paragraph 3 of Article 10 the Special Fund shall be used to make provision for the deficit of the Corporation as shown on the income statement.

3. Contributions to the Special Fund shall be made by the Member Countries in the proportion that their subscribed share capital bears to the total subscribed share capital.

Article 8
Transfer of Shares

Subject to paragraph 2 of Article 5, Shares shall not be pledged or encumbered in any manner whatsoever. Shares are transferable only to another Member Country.

Article 9
Capital Resources

1. The resources of the Corporation shall consist of -
   (a) Ordinary capital resources;
   (b) Loan capital resources; and
   (c) The Special Fund.
2. In this Agreement -

   "loan capital resources" means funds borrowed by the Corporation for the purposes of meeting any of its obligations or discharging any of its functions;

   "ordinary capital resources" include -
   (a) issued capital of the Corporation allotted pursuant to Article 5;
   (b) income derived from investments made from the aforementioned funds; and
   (c) any other funds or income received by the Corporation (other than payments into the Special Fund and loan capital resources).

CHAPTER III

OPERATING PRINCIPLES

Article 10
Estimates of Revenue and Expenditure and Dividends

1. The Board of Directors shall at such time before the beginning of a financial year as the Standing Committee may direct, submit to the Standing Committee -

(a) a programme of the shipping services including capital expenditure which the Corporation proposes to provide during that year and of the other activities in which the Corporation proposes to engage during that year; and

(b) an estimate of the revenue to be received by the Corporation during that year and of the expenditure to be incurred by them on revenue account during that year.

2. Every programme and estimate so submitted shall contain such information as the Standing Committee may direct.

3. The Corporation shall conduct its operations in such a manner as to enable it to cover its operating expenses (including interest and depreciation) and amortisation of loan stock, to the greatest extent possible, from its rate-revenue earnings.

4. The Board of Directors, in any one financial year, may increase the freight rates applied by the Corporation by an amount not exceeding fifteen percent without the approval of the Standing Committee. Any increase of freight rates above fifteen percent during such period shall be submitted by the Board of Directors to the Standing Committee for its approval.

5. The Standing Committee may, in approving the estimates of the Corporation, determine and authorise the extent to which the expenditure may exceed the approved estimates.

6. The Board of Directors shall submit to the Standing Committee for its approval each year a revised programme of capital expenditure applicable to the following five-year period.

7. The Board of Directors may recommend, and the Standing Committee may thereupon declare dividends out of the net profits of the Corporation.

8. In this Article -

"expenditure" in relation to any estimate includes any sum thereby proposed to be set aside or allocated for any purpose, other than a sum which would fall to be charged to capital account;

"revenue" does not include any payment into the Special Fund made by the Member Countries under this Agreement.

Article 11
Reports

1. The Corporation shall within six months of the end of each financial year transmit to the Standing Committee for approval an annual report containing an audited statement of its accounts and shall forward such report to Member Countries when approved.

2. The Corporation may publish such other reports as it deems desirable in the carrying out of its purpose and functions. Such reports shall be transmitted to the Standing Committee.

3. The Accounts of the Corporation shall be audited by Auditors approved by the Standing Committee.

CHAPTER IV

GENERAL POWERS

Article 12
Borrowing and Issue of Stock

1. The Corporation may with the consent of the Standing Committee or in accordance with the terms of any general authority given by the Standing Committee, borrow by way of overdraft or otherwise, such sums as the Corporation may require for meeting its obligations or discharging its functions.

2. Subject to the provisions of this Agreement, the Corporation may, upon such terms and conditions as the Standing Committee may approve, borrow money by the issue of stock for all or any of the following purposes, that is to say -

(a) the provision of working capital;

(b) the promotion of other undertakings relating to shipping services and the acquisition of such other undertakings, or of shares in such other undertakings, and the making of loans to and the fulfilment of guarantees given for the benefit of such other undertakings;

(c) the redemption of any stock which the Corporation is required or entitled to redeem; and

(d) any other expenditure properly chargeable to capital account, including the repayment of any money borrowed under paragraph 1 for any of the purposes mentioned in the preceding sub-paragraphs of this paragraph.

3. The Corporation may create and issue stock required for the purpose of exercising its powers under this Article.

4. In this Article, "stock" means loan stock.

Article 13
Guarantee of Loans

Any Member Country or group of Member Countries may agree jointly or severally to guarantee any borrowing by the Corporation authorised under Article 12 on such terms and conditions as the Standing Committee may approve.

CHAPTER V

ORGANISATION AND MANAGEMENT

Article 14
Structure

The Corporation shall have a Board of Directors, a General Manager and such other officers and staff as may be considered necessary by the Corporation.

Article 15
Board of Directors

Composition

1. (a) Initially the Board of Directors shall not exceed ten (10) Members of whom:

One shall be appointed by Barbados;

One shall be appointed by Guyana;

Three shall be appointed by Jamaica;

Four shall be appointed by Trinidad and Tobago;

One shall be appointed jointly by -

Antigua)
Dominica)
Grenada)
Montserrat)
St. Kitts.Nevis/Anguilla)
St. Lucia)
St. Vincent)

(b) Each Member Country or group of Member Countries represented on the Board of Directors shall be entitled to appoint an alternate for each of its Directors on the Board of Directors.

2. When other Countries become Members, the Standing Committee may determine the number of Directors of the Corporation. The Standing Committee may also determine from time to time the number of Directors who may represent any Member Country or Member Countries in terms of the shareholding of Member Countries.

3. Each Member Country or group of Member Countries entitled to make appointments to the Board of Directors shall inform the Standing Committee of their appointments as soon as possible after this Agreement enters into force.

4. Subsequent appointments to the Board of Directors shall be communicated to the Standing Committee by Member Countries or groups of Member Countries as soon as possible after such appointments are made.

5. Each Director and alternate shall hold office for a period of three years but shall be eligible for reappointment.

6. The Standing Committee shall appoint from the Directors a Chairman and a Vice-Chairman who shall preside in the absence of the Chairman. Both the Chairman and Vice-Chairman shall hold office for three (3) years. Both shall be eligible for reappointment.

7. The Chairman, Vice-Chairman and other Directors may be paid such remuneration, if any, and such reasonable allowances for attending Meetings as may be approved by the Standing Committee.

8. A Member Country or group of Member Countries represented by a Director may at any time revoke the appointment of that Director and appoint another person in his stead. The Member Country or group of Member Countries concerned shall promptly notify the Standing Committee of such revocation and of the new appointment.

Article 16
Board of Directors

Powers

The Board of Directors shall be responsible for the direction of the general operations of the Corporation and for this purpose shall in addition to the powers assigned to it by this Agreement, exercise all the powers delegated to it by the Standing Committee.

Article 17
Board of Directors

Voting

1. In voting at Meetings of the Board of Directors, each Director including the Chairman or Vice-Chairman when presiding shall be entitled to cast one vote. No alternate may vote except in the absence of his principal.

2. All decisions of the Board of Directors shall be by a simple majority of all the Members of the Board of Directors.

Article 18
Board of Directors

Procedures

1. The business of the Board of Directors shall normally be transacted at the principal office of the Corporation and the Board of Directors shall meet as often as the business of the Corporation requires.

2. A simple majority of all the Directors shall constitute a quorum for any Meeting of the Board of Directors.

3. Subject to paragraphs 1 and 2 of this Article, the Board shall settle its own Rules of Procedure.

Article 19
The General Manager

1. The Board of Directors shall appoint a General manager of the Corporation upon such terms and conditions as the Board sees fit.

2. The General Manager shall be Chief Executive Officer of the Corporation and shall conduct, under the direction of the Board of Directors, the current business of the Corporation. He shall be responsible for the organisation, appointment and dismissal of the officers and staff subject to the general control of the Board of Directors.

Article 20
Office of the Corporation

1. The principal office of the Corporation shall be located in such Member Country as the Standing Committee may determine.

2. The Corporation may establish agencies or branch offices elsewhere.

Article 21
Registration and Nationality of Ships

Ships owned by the Corporation shall be registered in such country or countries as the Standing Committee may direct.

CHAPTER VI

WITHDRAWAL AND SUSPENSION OF MEMBERS

Article 22
Withdrawal

1. A Member Country may withdraw from this Agreement at any time by delivering a written notice to the Depositary who shall promptly notify the other Member Countries.

2. Withdrawal of a Member Country shall become effective on the date specified in its notice but in no event shall such a date be less than twelve months after the date that the notice has been received by the Depositary. At any time before the withdrawal becomes effective, the Member Country may notify the Depositary in writing of the cancellation of its withdrawal notice.

3. Withdrawal from this Agreement shall be construed as having the effect of non-participation in the Standing Committee whenever it is exercising functions under this Agreement.

4. Withdrawal of a Member Country from Membership or Associate Membership of the Treaty Establishing the Caribbean Community shall be deemed to be withdrawal from this Agreement with effect from the expiration of the time limited by the provisions of that Treaty.

5. A Member Country which has given notice of its withdrawal from this Agreement undertakes to honour any financial obligations duly assumed during its Membership of the Corporation.

Article 23
Suspension of Membership

1. If a Member Country fails to fulfil any of its financial obligations to the Corporation, the Corporation may request the Secretary-General of the Caribbean Community to serve notice in writing on the Member Country concerned, calling on such Member Country to discharge those obligations within three (3) months of the date on which the notice was received by the member Country.

2. Where the Member Country concerned fails to discharge those obligations within the prescribed period, it shall be automatically suspended unless the Standing Committee decides otherwise.

3. The Member Country so suspended shall automatically cease to be a Member of the Corporation one (1) year from the date of its suspension or such longer period from that date as the Standing Committee may determine, unless the Standing Committee, during such period, decides to restore the member Country to good standing, on the fulfilment of its obligation.

4. While under suspension, a Member Country shall not be entitled to exercise any rights under this Agreement, except the right of withdrawal but shall remain responsible for all financial obligations assumed by it up to the time of suspension or during the time of suspension if that Member Country is restored to good standing under paragraph 3 of this Article.

Article 24
Settlement of Accounts

1. After the date on which a Member Country ceases to be a Member of the Corporation, that former Member shall remain liable for its direct financial obligations to the Corporation that were incurred before that date and for any other liability as incurred in respect of any loans or guarantees made to or given in respect of the Corporation but it shall not incur liabilities with respect to loans and guarantees entered into thereafter by the Corporation or share either in the income or expenses of the Corporation.

2. At the time a Member Country ceases to be a Member of the Corporation, the Corporation shall arrange for the transfer of such Member's shares as a part of the settlement of accounts with such Member in accordance with the provisions of this Article. Such shares shall be offered in the first instance to other Member Countries in the proportion which each Member Country's shares subscribed bears to the total subscribed shares immediately before the offer. For this purpose, the purchase price of

the shares shall be the value shown by the books of the Corporation, less ten per cent, on the date of the cessation of Membership.

3. If the Corporation is dissolved pursuant to Article 25 within six months of the date upon which the Membership of any Member Country ceases, all rights of the Member Country concerned shall be determined in accordance with the provisions of Articles 25 to 27. That Member Country shall be considered as still a Member of the Corporation for the purposes of such Articles but shall have no voting rights.

Article 25
Termination of Operations

1. The Standing Committee may decide to dissolve the operations of the Corporation.

2. After such decision, the Corporation shall forthwith cease all activities, except those incidental to the orderly realisation, conservation and preservation of its assets and settlement of its obligations.

Article 26
Liability of Members and Payment of Claims

In the event of the dissolution of the Corporation -

(a) the liability of all Member Countries for unpaid contributions to the Special Fund shall continue;

(b) the payment of claims shall be made in accordance with the law applicable to liquidation in force in the Member Country in which the Corporation has its principal office.

Article 27
Distribution of Assets

1. The distribution of assets shall be made in accordance with the general law applicable to corporate bodies of the Member Country in which the Corporation has its principal office, provided that within classes of creditors there shall be no preference but that a distribution shall be made *pari passu*. The foregoing proviso shall have effect notwithstanding the laws of the host country on this matter.

2. Any Member Country receiving assets distributed pursuant to this Article shall enjoy the same rights with respect to such assets as the Corporation enjoyed before their distribution.

CHAPTER VII

STATUS, IMMUNITIES, EXEMPTIONS AND PRIVILEGES

Article 28
Purpose of Chapter

To enable the Corporation effectively to fulfil its purposes and carry out the functions entrusted to it, the status, immunities, exemptions and privileges set forth in this Chapter shall be accorded to the Corporation in the Territory of each Member Country.

Article 29
Legal Status

1. The Corporation shall possess full juridical personality and, in particular, full capacity:

(a) to contract;

(b) to acquire and dispose of immovable and movable property; and

(c) to institute legal proceedings.

2. The Corporation may co-operate with national or international organisations or other entities and may seek all appropriate contacts with a view to co-operation with shipping institutions of the countries to which its operations extend.

3. Member Countries undertake to enact the legislation necessary to ensure that -

(a) all land and other property of every kind whatsoever including things in action vested immediately before the entry into force of this Agreement in the former Corporation are transferred to and vested in the Corporation;

(b) all the rights, privileges and advantages and all the liabilities and obligations which, immediately before the entry into force of this Agreement, the former Corporation, (in relation to the matters referred to in sub-paragraph (a) of this paragraph) was entitled or subject to, are conferred on, or assumed by, the Corporation for the purposes of this Agreement;

(c) legal proceedings pending immediately before the entry into force of this Agreement by or against the former Corporation, (in relation to matters mentioned in sub-paragraph (a) of this paragraph) may be continued on or after that day by or against the Corporation as the party to the proceedings instead of the former Corporation;

(d) the former Corporation is dissolved.

Article 30
Legal Process

Actions may be brought against the Corporation in a court of competent jurisdiction in the territory of a Member Country in which the Corporation has its principal or a

branch office or in the territory of a Member or non-Member Country where it has appointed an agent for the purpose of accepting service or notice of process.

Article 31
Immunity of Assets

Property and assets of the Corporation wheresoever located and by whomsoever held, shall be immune from requisition, confiscation and expropriation by any Member Country.

Article 32
Freedom of Assets from Restrictions

To the extent necessary to enable the Corporation to effectively carry out its functions and purposes each Member Country undertakes not to withhold such permission as may be necessary under its respective laws in relation to the transfer of assets including funds of the Corporation.

Article 33
Privilege for Communications

Official communications of the Corporation shall be accorded by each Member Country treatment not less favourable than that it accords to the official communications of any other Member Country.

Article 34
Immunities and Privileges
of the Corporation Personnel

1. All Members of the Standing Committee, Directors, the General Manager, Officials and Employees of and experts performing missions in connection with the Corporation:

(a) shall be immune from legal process with respect to acts performed by them in their official capacity;

(b) where they are not local citizens or nationals, shall be accorded such immunities from immigration restrictions, alien registration requirements and national service obligations, and such facilities as regards exchange regulations, as are not less favourable than those accorded by the Member Countries concerned to the representatives, officials and employees of comparable rank by any other Member Country;

(c) shall be given such repatriation facilities in time of international crises which are not less favourable than those accorded by the Member Countries concerned to the representatives, officials and employees of comparable rank by any other Member Country;

2. Member Countries may limit the immunity conferred by this Article to exclude from its application any civil action arising out of accidents involving motor vehicles belonging to the Corporation or operated on its behalf or from traffic offences committed by the drivers of such motor vehicles. The limitation shall not be enforced until three months after notification of it to the Corporation.

Article 35
Exemption from Taxation

1. The Corporation, its assets, property, income and its operations and transactions, shall be exempt from all direct taxation and from all customs duties and other internal taxes on goods imported for its official use.

2. Notwithstanding the provisions of paragraph 1 of this Article, the Corporation shall not claim exemption from taxes which are no more than charges for public utility services.

3. Articles imported under an exemption from customs duties as provided by paragraph 1 of this Article shall not be sold in the territory of the Member Country which granted the exemption except under conditions agreed with the Member Country.

Article 36
Waiver of Immunities, Exemptions and Privileges

1. The immunities, exemptions and privileges provided in this Chapter are granted in the interest of the Corporation. The Board of Directors may waive to such extent and upon such conditions as it may determine, the immunities, exemptions and privileges provided in this Chapter in cases where such action would, in its opinion, be appropriate in the best interests of the Corporation.

2. The General Manager shall have the right and duty to waive any immunity, exemption or privilege in respect of any officer or employee of, or any expert performing a mission for the Corporation, where, in his opinion, the immunity, exemption or privilege would impede the course of justice and can be waived without prejudice to the interests of the Corporation.

3. In similar circumstances and under the same conditions, the Board of Directors shall have the right and duty to waive any immunity, exemption or privilege in respect of the General Manager.

CHAPTER VIII

AMENDMENTS, INTERPRETATION, ARBITRATION

Article 37
Amendments

1. This Agreement may be amended by the Member Countries and any such amendment shall be open for signature and ratification in the manner provided for by Articles 42 and 43.

2. Any proposal to amend this Agreement whether emanating from a Member Country or from the Standing Committee, shall be communicated to the Secretary-General and copied to all other Member Countries.

3. Any such amendment shall come into force upon receipt of the last instrument of ratification by the Secretary-General who shall notify all the Member States of the date of entry into force of each amendment.

Article 38
Interpretation and Application

1. In this Agreement unless the context otherwise requires -

"Corporation" means the West Indies Shipping Corporation established by Article 1.

"Dollar" means the dollar in the currency in the territory where the Corporation has its principal office.

"Financial Year" means January 1 to December 31, unless the Standing Committee otherwise determine.

"Member Country" means any State or territory which signs and ratifies or accedes to this Agreement.

"Standing Committee" means the Standing Committee of Ministers responsible for Transport established and designated as an Institution of the Caribbean Community by the decision of the Heads of Government Conference of the Caribbean Community.

"Secretary-General" means the Secretary-General of the Caribbean Community established by the Treaty done at Chaguaramas on 4th July, 1973.

2. Any question of interpretation or application of the provisions of the Agreement not otherwise expressly provided for shall be submitted to the Standing Committee for a decision

Article 39
Arbitration

1. If a dispute should arise between the Corporation and a Country which ceases to be a Member, or between the Corporation and any Member Country after a decision to dissolve the Corporation, such dispute shall be submitted to arbitration by a tribunal of three arbitrators by either Party to the dispute. Each Party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint the third who shall be Chairman. If within thirty days of the request for arbitration either Party has not appointed an arbitrator or if within fifteen days after the appointment of two arbitrators the third arbitrator has not been appointed, either Party may request the Secretary-General to appoint an arbitrator. The procedure of the arbitration shall be fixed by the arbitrators. However, the third arbitrator shall be empowered to settle all questions of procedure in any case of disagreement with respect thereto.

2. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding upon the parties.

Article 40
Undertaking as to Financial Obligations to Former Corporation

Each Member Country undertakes to pay the Corporation within one (1) year of the date of the entry into force of this Agreement, a sum equal to the total amount due and owing by it to the former Corporation immediately before that date.

CHAPTER IX

FINAL PROVISIONS

Article 41
Implementation

Each Member Country shall take the necessary action to make effective the provisions of this Agreement and enact such legislation as may be necessary to discharge its obligation under it.

Article 42
Signature and Deposit

1. This Agreement shall be lodged with the Secretary-General (in this Agreement referred to as the Depositary) and shall remain open until the 30th day of November, 1975 for signature by the Countries listed in the Annex to this Agreement.

2. The Secretary-General shall transmit certified copies of this Agreement to all the signatories and other countries which become Members of the Corporation.

Article 43
Ratification

1. This Agreement shall be subject to ratification by the signatories.

2. Instruments of Ratification shall be deposited with the Depositary who shall notify the other signatories of each deposit and the date thereof.

Article 44
Entry Into Force

This Agreement shall enter into force upon the deposit of Instruments of Ratification by four or more Countries mentioned in paragraph 1 of the Annex which have subscribed to at least 90 per cent of the initial issue of share capital in accordance with Article 5.

Article 45
Saving

The vote of a representative of any country on the Standing committee that is not a Member Country shall not be counted.

Article 46
Accession

After the 30th day of November, 1975 a country may become a Member of the Corporation (provided that country is a Member or Associate Member of the Caribbean Community) by accession to this Agreement on such terms as the Standing Committee shall determine. Any such country shall deposit, on or before a date appointed by the Standing Committee, an Instrument of Accession with the Depositary who shall notify such deposit and the date thereof to the corporation and the parties to this Agreement. Upon such deposit, the Country shall become a Member of the Corporation on the appointed date.

Article 47
Inaugural Meeting

1. As soon as possible after this Agreement enters into force the Secretary-General shall call a special meeting of the Standing Committee for the purpose of appointing the Chairman and Vice-Chairman of the Board of Directors of the Corporation, and such other matters as may be necessary for the carrying of this Agreement into effect.

2. Within three (3) weeks of the appointment of the Chairman and Vice-Chairman, the Chairman shall call the inaugural Meeting of the Board of Directors.

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

Done at Georgetown, this 3rd day of October, One Thousand Nine Hundred and Seventy-five in a single copy which shall be deposited with the Secretary-general of the Caribbean Community who shall transmit certified copies to all the signatories and other countries which become Members of the Corporation.

ANNEX

MEMBERSHIP

(i) Antigua
(ii) Barbados
(iii) Dominica
(iv) Grenada
(v) Guyana
(vi) Jamaica
(vii) Montserrat
(viii) St. Kitts-Nevis-Anguilla
(ix) St. Lucia
(x) St. Vincent
(xi) Trinidad and Tobago

2. Belize.

9

THE HARMONISATION OF FISCAL INCENTIVES TO INDUSTRY

Conceding that the Caribbean Community is a net importer of capital for the financing of economic development projects, particularly in the industrial and manufacturing sectors, it is easy to appreciate how interested Governments may be inveigled into according foreign investors competitive investment incentives in a mad rush to the bottom. In order to forestall such an eventuality, the original Treaty of Chaguaramas provides in Article 40 for the harmonisation of fiscal incentives. In this connection, it is somewhat curious to note that whereas the Agreement on the Harmonisation of Fiscal Incentives, signed on June 5, 1973, prior to the signature of the original Treaty of Chaguaramas, expressly provides for the harmonisation of incentives, Article 40 of the said Treaty does not require incentives to be harmonised. The obligation assumed is merely to 'seek to harmonise such legislation and practices as directly affect fiscal incentives to industry' - Article 40 (1). Similarly, Member States were required to seek to harmonise fiscal incentives to agriculture and tourism and to 'study the possibility of approximating income tax systems and rates with respect to companies and individuals'. Given the foregoing, it does appear that the Treaty constituted a retreat from the position adopted in the Agreement on the Harmonisation of Fiscal Incentives to Industry which was intended to implement Article 23 of the CARIFTA Agreement.

Whereas the Agreement on Harmonisation of Fiscal Incentives implicitly recognises in the preamble that such harmonisation is a requirement of the common market to be established, the original Treaty of Chaguaramas appears to be hesitant to require outright the harmonisation of incentives. In the result, the Agreement on the Harmonisation of Fiscal Incentives to Industry never entered into force and no serious attempts were made to harmonise incentives under the old dispensation established in 1973. However, Article 69 of the Revised Treaty of Chaguaramas expressly requires Member States of the Community to harmonise 'national incentives to investments in the industrial, agricultural and services sectors'. The Council for Finance and Planning has been tasked with the establishment of appropriate regimes for the granting of incentives to enterprises in the areas identified and in so doing must pay due consideration to the peculiarities of industries.

For the purpose of granting incentives to enterprises under the Agreement, certain enterprises were designated approved enterprises which were classified into two groups according to agreed criteria. For the purpose of the Agreement an 'approved enterprise' means an enterprise approved by the relevant authority of a Member State for the purpose

of conferring a benefit under the Scheme. The Agreement established ceilings for the conferment of benefits and within which Member States had a discretion to vary benefits. These enterprises were then granted relief from various forms of duties on plant, equipment, machinery, spare parts and raw materials for specified periods. Relief from income tax was also available according to an agreed schedule in addition to relief from income tax on export profits and depreciation allowances. More important, enterprises suffering losses in any given year were allowed to carry forward those losses as a set-off in computing benefits for specified periods into the future. Relief was also available for dividends earned by shareholders in approved enterprises manufacturing approved products. An interesting dimension of the regime established by the Agreement was recognition of the equitable principle of special and differential treatment which allowed the less developed countries of the Community to offer more attractive incentives than the more developed economies. This principle is being vigorously espoused by CARICOM States in WTO and FTAA fora, and the requirements of consistency would appear to prescribe its application among the Member States of the Caribbean Community.

AGREEMENT ON THE HARMONISATION OF FISCAL INCENTIVES TO INDUSTRY

The contracting parties:

In pursuance of the declared intention set out in Article 23 and in Annex A of the Agreement establishing the CARIFTA Free Trade Association to take measures to secure the adoption of a regional policy of incentives to industry as early as possible:

Recognising the need for promoting the balanced and harmonious development of the Region by means of the Conferment of incentives to industry:

And noting that steps have been taken for the establishment of a Common Market within a Caribbean Community:

Have agreed as follows:

Article 1
Establishment of Scheme

By this Agreement, the Contracting Parties establish a Scheme to be known as the 'Harmonisation of Fiscal Incentives to Industry Scheme' (hereinafter referred to as the 'Scheme') which shall be implemented under and in accordance with this Agreement.

Article 2
Participation in the Scheme

1. Participation in the scheme shall be open to -

   (a) (i) Antigua
   (ii) Barbados
   (iii) Belize

(iv) Dominica
(v) Grenada
(vi) Guyana
(vii) Jamaica
(viii) Montserrat
(ix) St. Kitts/Nevis/Anguilla
(x) St. Lucia
(xi) St. Vincent
(xii) Trinidad and Tobago

(b) Any other state of the Caribbean Region that becomes a member of the Caribbean Common Market.

2. States listed in paragraph 1(a) of this Article the Governments of which sign this Agreement in accordance with Article 20 and ratify it in accordance with Article 21 shall become participants in the Scheme.

3. States referred to in paragraph 1 (b) of this Article, the Governments of which accede to this Agreement in accordance with Article 26 shall become participants in the Scheme.

Article 3
Definitions

1. In this Agreement, unless the context otherwise requires -

"approved enterprise" mean an enterprise which is approved by the relevant authority of a Member State for the purpose of conferring a benefit under the Scheme;

"approved product" means subject to this Agreement a product of manufacture approved by the relevant authority of the Member State for manufacture by an approved enterprise;

"benefit" means any relief granted by a Member State to an approved enterprise under and in accordance with this Agreement;

"enterprise" means a company incorporated under the laws of the State conferring a benefit to an approved enterprise and engaged or about to engage in an industry;

"income tax" means any tax (by whatever name called) on income or profits imposed by a Member State;

"industry" means a manufacturing or processing industry and includes Deep Sea Fishing and Shrimping, but only if they form part of an integrated processing operation;

"Group I Enterprise" means an enterprise in respect of which the local value added is 50 per centum or more of the amount realised from the sales of an approved product;

"Group II Enterprise" means an enterprise in respect of which the local value added is 25 per centum or more but less than 50 per centum of the amount realised from the sales of an approved product;

"Group III Enterprise" means an enterprise in respect of which local value added is 10 per centum or more but less than 25 per centum of the amount realised from the sales of an approved product;

"Enclave Enterprise" means an enterprise producing exclusively for export to countries outside the Common Market;

"Local value added" means the amount (expressed as a percentage of total sales of the approved product) by which the amount realised from the sales of an approved product (in respect of a continuous period of twelve months) exceeds the aggregate amount of the following:

(i) the value of imported raw materials, components and parts of components, fuels and services;

(ii) wages and salaries paid during the period to persons who are not nationals of the Member States;

(iii) profits distributed and remitted directly or indirectly to persons (including companies) who are not resident in any Member State;

(iv) interest, management charges and other income payments accruing directly or indirectly to persons (including companies) not resident in any Member State, other than a branch or agency of banks not resident in any Member State;

(v) depreciation of imports of plant, machinery and equipment;

"Member State" means a State referred to in paragraph 2 or 3 of Article 2 of this Agreement;

"More Developed Country" means Barbados, Guyana, Jamaica and Trinidad and Tobago; and "Less Developed Country" means any other Member State referred to in paragraph 1(a) of Article 1 of this Agreement;

"national" means a person who is a citizen of any Member State and includes a person who has a connection with such a State of a kind which entitles him to be regarded as belonging to or, if it be so expressed, as being a native or resident of the State for the purpose of such laws thereof relating to immigration as are for the time being, in force;

"Production date" means the date on which an approved enterprise commences production of the approved product or such other date as may be specified in accordance with the laws of a Member State as the case may be;

"sale" means sales ex-factory of an approved product.

2. The local value added shall be weighted by the wages and salaries paid to nationals of any Member State expressed as a percentage of total sales of the approved product and calculated by the following formula:

$$\frac{V(100+W)}{100}$$

Where - 'V' is the local value added expressed as a percentage of total sales of the approved product,

and - 'W' is the wages and salaries paid to nationals of any Member State, expressed as a percentage of total sales of the approved product.

3. For the purpose of sub-paragraph (i) of the definition of "local value added" in paragraph 1 of this Article, in determining of the value of the content of any component produced by any of the Member States, no account shall be taken of any element in the cost of that component, other than the value of the imported raw material content.

4. For the purposes of sub-paragraphs (iii) and (iv) of the definition of "local value added" in paragraph 1 of this Article, a Company shall be taken to be not resident in any Member State if it is controlled directly or indirectly by a person (including a company) who is not resident in any Member State; and such a person shall be taken to have control of such a company if he exercises or is able to exercise control over the affairs of the company and in particular, but without prejudice to the generality of the foregoing, if he possesses or is entitled to acquire the greater part of the ordinary and paid up share capital (excluding shares which carry no voting rights) or voting power of the company.

Article 4
Discretion as to Benefits

The extent to which any benefit under this Agreement may be granted to an approved enterprise shall be at the discretion of Member States, so, however, that no Member State may grant benefits to an approved enterprise for a period or at percentage rates in excess of, or on conditions contrary to, those specified under this Agreement.

Article 5
Classification of Approved Enterprises

1. For the purpose of the grant of any benefit under this Agreement each enterprise must be classified under one of the categories:

(a) Group I enterprise
Group II enterprise
Group III enterprise respectively; or

(b) Enclave enterprise,

as the case may be.

2. For the purpose of the classification of an enterprise as a Group I Enterprise, Group II Enterprise or Group III Enterprise, the local value added shall, in the first instance, be estimated in order to determine the Group in which the enterprise is to be classified.

3. On an appraisal of the performance of an approved enterprise pursuant to Article 16 of this Agreement, the approved enterprise must be reclassified into the appropriate Group and allocated the appropriate number of years of relief set out in Appendix I to this Agreement, as is determined by such appraisal, or the status of such approved enterprise must be deemed revoked in accordance with paragraph 2(a) of Article 16 of this Agreement, as the case may be.

4. Where an enterprise is engaged in a highly capital intensive industry -

(a) nothing in the foregoing provisions of this Article shall apply thereto for thepurpose of this Agreement; and

(b) a Member State may grant any benefit thereto for a period not exceeding that for which the benefit may be granted to Enclave Enterprises in accordance with Appendix I to this Agreement.

5. In paragraph 4 of this article a "highly capital intensive industry" is one, the capital investment in which is not less than -

(a) $25 million in the currency of the Eastern Caribbean Territories in any Less Developed Country;

(b) $50 million in the currency of the Eastern Caribbean Territories in any More Developed Country.

Article 6
Relief from Tonnage Tax and Customs Duty on Plant, Equipment, Machinery, Spare Parts and Raw Materials

Member States must not grant to an approved enterprise relief from customs duties (including tonnage tax) on plant, equipment, machinery, spare parts, raw materials and components imported from outside the Member States for use in the manufacture of approved products for a period in excess of that respectively specified in Appendix I to this Agreement, so, however, that if the relevant authority of the Member State is satisfied that raw materials of a comparable price and quality and in adequate quantities are available from Member States for import and the approved enterprise continues to import raw materials from States other than member States, the relevant authority must impose tariff and quote restrictions on the importation of such raw materials from States other than Member States provided that no restrictions shall apply to any relief from customs duty on imported raw materials or components used in Enclave Enterprises.

Article 7
Relief from Income Tax

1. Member States must not grant to an approved enterprise relief from income tax in respect of profits or gains derived from the manufacture of the approved product for a period in excess of that respectively specified in Appendix I to this Agreement.

2. Subject to the provisions of this Agreement any relief from income tax shall be granted only in respect of profits accruing from the production date of an approved enterprise.

Article 8
Relief from Income Tax Liability on Export Profits

1. Member States must grant relief from income tax on export profits only in accordance with this Article.

2. Member States must provide that if relief is granted under this Article to an approved enterprise, such relief may not be enjoyed by that enterprise during any period for which relief is granted under Article 6 or 7 or both.

3. The relief which may be granted to an approved enterprise under this Article shall be by way of a tax credit and must not be in excess of the percentage of income tax

liability on the full amount of export profits of the approved enterprise from the manufacture of the approved product specified in the Second Column of the Table below, where the amount of export profit expressed as a percentage of the full amount of the profits of the approved enterprise from the manufacture of the approved product is as respectively specified in the First Column of the Table.

TABLE

FIRST COLUMN Percentage of Export Profits	SECOND COLUMN Maximum Percentage of Income Tax Relief
10 % or more but less than 21%	25%
21% or more but less than 41%	35%
41% or more but less than 61%	45%
61% or more	50%

4. For the purposes of paragraph 3 of this Article export profits shall be taken to the profits produced by the following formula:

$$\frac{E \times P}{S}$$

where: E is the proceeds from export sales for the year;

P is the profits of the approved enterprise from all sales of the approved product for the year;

and, S is the proceeds of all sales for the year.

5. No relief under this Article may be granted by a Member State to an enterprise engaged in a traditionally export-oriented industry in respect of a product of that industry that is traditionally exported by that Member State.

6. Subject to paragraphs 7 and 8 of this Article, relief under this Article may be granted only in respect of the export of an approved product to a State other than a Member State.

7. Less Developed Countries may grant relief under this Article to an approved enterprise for export to More Developed Countries, other than Barbados, for a period not exceeding five years next following the expiration of any period of relief granted under Article 6 or 7 or both of this Agreement.

8. During the period of five years after the commencement of this Agreement, a Less Developed Country may, notwithstanding paragraph 6, grant relief under this Article in respect of the exports to More Developed Countries, other than Barbados, by an approved enterprise to which no relief under Articles 6 and 7 of this Agreement is granted.

Article 9
Depreciation Allowances

Member States must provide that in computing the profits of an approved enterprise for the purposes of any relief from income tax under Article 7 of this Agreement, there shall be allowed and made -

(a) as from the production date of the approved enterprise, a deduction on account of any depreciation allowance which would, but for that relief, be claimable in the year;

(b) such further deduction as an initial allowance for capital expenditure on plant, machinery and equipment incurred by the approved enterprise in the manufacture of the approved product after the expiration of the period of relief from income tax granted in accordance with Article 7 of this Agreement as the Member State may determine, but so that such deduction does not exceed 20% of the capital expenditure.

Article 10
Carry Forward of Losses

1. Member States must provide that, upon the cessation of any relief from income tax under Article 7 of this Agreement, the net losses made during the period of such relief may notwithstanding the grant of that relief in accordance with this Agreement be carried forward for the purpose of set off in computing the profits or an enterprise for the period of five years next following the cessation of the relief.

2. If the status of an enterprise as an approved enterprise is revoked or deemed revoked under the laws of a Member State or under those laws made pursuant to paragraph 2(a) of Article 16, of this Agreement, such an enterprise shall be treated for the purpose of carrying forward losses incurred before such revocation, as if it was an approved enterprise.

3. In this Article "net losses" means the excess of sum of all losses over the sum of all profits made during the period of the relief.

Article 11
Dividends and Other Distributions

1. Dividends and other distributions out of profits or gains accruing to an approved enterprise from the manufacture of the approved product during the period of relief from income tax under Article 7 of this Agreement must not be subject to any limitation as to the time within which the dividends and other distributions are to be made.

2. Subject to paragraph 3, such dividends and other distributions made by an approved enterprise and out of profits or gains accruing during the period of relief from income tax under Article 7 of this Agreement, or made by a recipient of such a dividend or other distribution may be exempt from income tax in the hands of a recipient.

3. Where the recipient is not resident in any Member State, the exemption shall apply to so much only of the tax as exceeds his liability on such dividend or other distribution in his country of residence.

Article 12
Interest

Interest (in any form) on loan capital and any other borrowings of an approved enterprise (whether in the form of overdraft, debenture or otherwise) must not be exempt from income tax in the hands of the recipient.

Article 13
Exclusions and Limitations

More Developed Countries must not grant relief from income tax under Article 7 of this Agreement to an approved enterprise respecting the manufacture of any product specified in the list given in Appendix II to this Agreement, but nothing in this Article shall be construed as authorising the grant of relief under Article 8 of this Agreement to an approved enterprise respecting the manufacture of any product referred to in paragraph 5 of Article 8 of this Agreement as well as in Appendix II to this Agreement.

Article 14
Treatment of Established Industries

Member States must provide that where 60 per cent and, in the case of Barbados, 90 per cent of the domestic market of a More Developed Country for any product is already supplied by industry in that State, no relief from income tax under Article 7 of this Agreement may be granted to an enterprise by that State.

Article 15
Savings for Benefits Under Existing Laws

1. This Agreement is not to be taken to have revoked or otherwise affected any rights in the nature of benefits enjoyed by an enterprise under the law of a Member State in force immediately before the commencement of this Agreement and those laws may continue to have effect for the purpose of the enjoyment of those rights.

2. Member States must provide that all applications for such rights pending under those laws at the commencement of this Agreement must, under the legislation of Member States referred to in Article 17, be deemed to have been made under that legislation and must be dealt with accordingly and member States must not grant rights in the nature of benefits pending the enactment of such legislation.

Article 16
Appraisals

1. Member States must provide that the relevant authority appraise the performance of an approved enterprise classified in a Group to which a benefit other than relief under Article 8 of this Agreement is granted for the purpose of determining whether any change in the Classification in the Group of that enterprise under Article 5 of this Agreement should be made -

(a) in the first instance, at the end of three years after the production date;

(b) thereafter at the end of each period of two years until the cessation of all benefits other than relief from income tax under Article 8 of this Agreement.

2. Where, on an appraisal pursuant to paragraph 1 of this Article, an approved enterprise -

(a) fails to maintain its classification and fails to qualify for reclassification in any other Group set out in Appendix I to this Agreement, the status of that enterprise as an approved enterprise shall be deemed revoked for the purpose of relief under Articles 6 and 7 of this Agreement and nothing in paragraph 1(b) of this Article shall apply.

(b) maintains its classification or is reclassified to a lower or higher Group set out in Appendix I to this Agreement, that enterprise shall continue as an approved enterprise and the provisions of paragraph 1(b) of this Article shall continue to apply accordingly.

Article 17
Implementation

Member States shall be responsible for implementing the Scheme as early as possible by legislation in accordance with this Agreement.

Article 18
Administration

1. The Eastern Caribbean Common Market Secretariat shall (where so requested) assist its Member States in the performance of the appraisal under Article 16 of this Agreement.

2. The Commonwealth Caribbean Regional Secretariat shall collect information and act as clearing house for the flow of information collected from Member States regarding the operation of the Scheme.

Article 19
Review of Scheme

This Scheme shall be reviewed by the Council at the end of five years from the commencement of this Agreement.

Article 20
Signature

This Agreement is open for signature by any State mentioned in paragraph 1(a) of Article 2 of this Agreement.

Article 21
Ratification

This Agreement shall be subject to ratification by the signatory States in accordance with their respective constitutional procedures. Instruments of ratification shall be deposited with the Commonwealth Caribbean Regional Secretariat which shall transmit certified copies to the Government of each Member State.

Article 22
Entry Into Force

This Agreement shall enter into force on 1st July, 1973, if instruments of ratification have been previously deposited in accordance with Article 21 of this Agreement by at least ten of the States mentioned in paragraph 1(a) of Article 2 thereof, and if not, then on such later date on which the tenth such instrument has been so deposited.

Article 23
Registration

This Agreement and any amendments thereto shall be registered with the Secretariat of the United Nations.

Article 24
Amendments

1. This Agreement may be amended by the Contracting Parties.

2. Any such amendment shall be subject to ratification and shall enter into force one month after the date on which the last instrument of Ratification is deposited with the Commonwealth Caribbean Regional Secretariat.

Article 25
Withdrawal

A Member State may withdraw from this Agreement by giving notice in writing to the Commonwealth Caribbean Regional Secretariat. Such withdrawal shall take effect twelve months after the notice is received by the Commonwealth Caribbean Regional Secretariat.

Article 26
Accession to the Treaty

1. Any State of the Caribbean Region may apply to become a party to this Agreement and may if the Member States so decide, be admitted to membership in accordance with paragraph 2 of this Article.

2. Admission to membership shall be upon such terms and conditions as the Member States may decide and shall be effected by the deposit of an appropriate instrument of accession with the Commonwealth Caribbean Regional Secretariat.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorised thereto by their respective Governments have signed the present Agreement.

DONE at Georgetown, Guyana on the 1st day of June 1973 in a single copy, certified copies of which shall be transmitted to all Participating Government.

APPENDIX I

(Articles 5, 6 & 7)

PERIODS OF BENEFITS UNDER ARTICLES 6 & 7

Classification of an Approved Enterprise	Maximum Number of Years Relief from Income Tax and Customs Duties in Respect of an Approved Enterprise located in:-		
	More Developed Countries (other than Barbados)	Barbados	Less Developed Countries
Group I Enterprise	9	10	15
Group II Enterprise	7	8	12
Group III Enterprise	5	6	10
Enclave Enterprise	10	10	15

APPENDIX II

(Article 13)

AGREED LIST OF INDUSTRIES FOR EXCLUSION FROM HARMINISATION SCHEME

Aluminium Products:

(1) Tubular Furniture

(2) Window Frames

(3) Hollow Ware

Automobile Mufflers which are not produced as part of an integrated automobile exhaust system

Clocks

Hats and Caps
Shirts and Knitted Underwear
Packaging Materials:
    (1) Plastic film
    (2) Twine
    (3) Paper bags
    (4) Cardboard boxes
    (5) Corrugated cardboard containers
Tissue Paper Products
Umbrellas
Nails
Brushes and Mops
Coir products, mats and matting
Mattresses
Drinking straws
Aerated waters
Rum
Beer
Bakery products
Cigarettes
Concrete blocks
Concrete pipes (non-asbestos)
Concrete tiles
Copra
Edible oils and fats from copra
Handicraft items
Phonographic Records
Pop Corn
Printing
Stationery (excluding continuous business forms)
Syrups

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THE CARIBBEAN COMMUNITY AND COMMON MARKET

The signing of the Treaty of Chaguaramas Establishing the Caribbean Community and Common Market on July 4, 1973, was a defining moment in the history of the Commonwealth Caribbean. Given the acrimony that characterised events involving the collapse of the political integration initiative, it was generally assumed that nothing short of a miracle would bring the leaders together again in any endeavour that was not palpably non-political.

Yet the Treaty of Chaguaramas went beyond the common determination of political leaders to integrate their economies. Economic integration issues, particularly as they related to trade arrangements were being addressed in a separate instrument known as the Common Market Annex in respect of which the Common Market Council was the principal organ. The Community was set out in the principal agreement and the supreme organ in the institutional arrangements being devised was the Conference of Heads of Government which normally convened to deliberate on a range of issues which were not necessarily restricted to economic issues. Furthermore, the Community instrument addressed issues of foreign policy coordination which had a political dimension and functional cooperation issues which traversed areas well beyond economic considerations. That much had changed in the intervening period was evident in the fall of the Jagan administration following the defeat of the Kaldor budget, in the defeat of the Barbados Labour Party and the rise of Barrow's Democratic Labour Party to power and in the defeat of the Jamaica Labour Party and the rise of the Peoples National Party to power under Michael Manley. Eric Williams in Trinidad and Tobago remained constant.

But the political directorate had been so transformed in other ways that new initiatives in political convergence were not inconceivable. So the Treaty of Chaguaramas became a reality.

By way of a caveat, however it must be submitted at the outset that the transition from CARIFTA to Caribbean Community and Common Market was not as far-reaching as it might have first appeared. The Agreement concluded by Barrow, Burnham and Bird at Dickenson Bay in 1965 had undergone significant changes with the Supplemental Agreement signed in 1968 to facilitate the accession of the OECS countries to the regime. One such change was to be found in Article 39 which allowed the LDCs to derogate from their Treaty obligations in order to promote industrialisation in the less developed Member States. This principle of special and differential treatment for weaker

sovereignties, vigorously espoused by Caribbean Countries both in the context of the WTO, ACP-EU and FTAA negotiations, has been appropriately addressed in chapter seven of the Treaty of Chaguaramas. Another significant modification to the CARIFTA Agreement on being incorporated in the Common market Annex relates to area tariff origin, a concept which was apparently culled from the EFTA Agreement but which disappeared from the corresponding provisions of the Common Market Annex and has been the cause of much controversy in interpreting relevant provisions of Protocol IV (Trade Policy) amending the Treaty of Chaguaramas and Article 84 of the Revised Treaty of Chaguaramas.

The original Treaty of Chaguaramas established two discrete juridical entities possessing separate legal personalities in the national jurisdictions of Member States implementing the constituent instruments of the Community and Common Market. The objectives of the Caribbean Community encompass three areas as follows: economic integration of member States aimed at strengthening the coordination and regulation of their economic and trade relations; sustained expansion and continuing integration of economic activities and a greater measure of economic independence and effectiveness of Member States in their interface with other States; secondly, the effective coordination of national foreign policies, and thirdly, functional cooperation, including the efficient operation of common services and the promotion of greater understanding among the peoples of the community and the advancement of their social, cultural and technological development. The objectives of the Common Market which are not significantly different from the economic objectives of the Community, are set out in the Common Market Annex.

For the achievement of the objectives of the Caribbean Community and Common Market, the Treaty has established two principal organs - the Conference of Heads of Government and the Common Market Council and a variety of Ministerial Institutions. The Conference, as the supreme organ, determines the policy of the Community. Given the high profile of foreign affairs in the activities of states and the desire to dispel any doubt about the status of the Community as an association of sovereign states, the political directorate determined that the Standing Committee of Ministers responsible for Foreign Affairs will only make recommendations to Member States and even such recommendations were to be reached by unanimous vote. Similarly, to underscore the pre-eminence of the Conference and the importance of this body, the Treaty states that unless otherwise provided for in the Treaty, disputes concerning the interpretation and application of the Treaty shall be determined by the Conference.

The Community was recognised in Member States as possessing full juridical authority and Member States agreed to commit or accord to the Community, the most extensive legal capacity accorded legal persons under their national laws, including the capacity to acquire and dispose of moveable and immoveable property and to sue and be sued in its own name. In any legal proceedings involving the Community, the Secretary General is required to represent the Community. The Community has concluded a headquarters agreement with the Government of Guyana and has in collaboration with the Community Secretariat elaborated a Protocol on Privileges and Immunities.

Membership of the Community is restricted to Commonwealth Caribbean States and other state of the Caribbean Region which in the opinion of the Conference is able and willing to exercise the rights and assume the obligations of membership. Pursuant

to the relevant provisions of the Treaty, Suriname was admitted to membership in 1996 and Haiti's application for membership is currently pending. The Treaty also provides for associate membership and to date the British Virgin Islands, the Turk and Caicos Islands and Anguilla are associate members and the Cayman Islands and Bermuda have also indicated strong interest in associate membership of the Community.

TREATY ESTABLISHING THE CARIBBEAN COMMUNITY AND COMMON MARKET

PREAMBLE

The Governments of the contracting states,

Determined to consolidate and strengthen the bonds which have historically existed among their peoples;

Sharing a common determination to fulfill the hopes and aspirations of their peoples for full employment and improved standards of work and living;

Conscious that these objectives can most rapidly be attained by the optimum utilisation of available human and natural resources of the Region by accelerated, co-ordinated and sustained economic development, particularly through the exercise of permanent sovereignty over their natural resources; by the efficient operation of common services and functional co-operation in the social, cultural, educational and technological fields; and by a common front in relation to the external world;

Convinced of the need to elaborate an effective regime by establishing and utilising institutions designed to enhance the economic, social and cultural development of their peoples;

Have agreed as follows:

CHAPTER ONE - PRINCIPLES

Article 1
Establishment of the Caribbean Community

By this Treaty the Contracting Parties establishment among themselves a Caribbean Community (hereinafter referred to as "the Community") having the membership, powers and functions hereinafter specified.

Article 2
Membership

Membership of the Community shall be open to:

(a) (i) Antigua
(ii) Bahamas
(iii) Barbados
(iv) Belize

(v) Dominica
(vi) Grenada
(vii) Guyana
(viii) Jamaica
(ix) Montserrat
(x) St. Kitts-Nevis-Anguilla
(xi) St. Lucia
(xii) St. Vincent
(xiii) Trinidad and Tobago

(b) any other State of the Caribbean Region that is in the opinion of the Conference able and willing to exercise the rights and assume the obligations of membership in accordance with Article 29 of this Treaty.

2. States listed in paragraph 1 (a) of this Article the Governments of which sign this Treaty in accordance with Article 22 and ratify it in accordance with Article23 shall become Member States of the Community.

Article 3
Definition of Less Developed Countries and More Developed Countries

For the purposes of this Treaty the States specified in paragraph 1 (a) (iii), (vii), (viii) and (xiii) of Article 2 shall be designated More Developed Countries and the remainder listed in the said paragraph 1 (a), other than the Bahamas, shall be designated Less Developed Countries until such time as the Conference otherwise determine by majority decision.

Article 4
Objectives of the Community

The Community shall have as its objectives –

(a) the economic integration of the Member States by the establishment of a common market regime (hereinafter referred to as "the Common Market") in accordance with the provisions of the Annex to this Treaty with the following aims:-

(i) the strengthening co-ordination and regulation of the economic and trade relations among member States in order to promote their accelerated harmonious and balanced development;

(ii) the sustained expansion and continuing integration of economic activities, the benefits of which shall be equitably shared taking into account the need to provide special opportunities for the Less Developed Countries;

(iii) the achievement of a greater measure of economic independence and effectiveness of its Member States in dealing with states, groups of states and entities of whatever description;

(b) the co-ordination of the foreign policies of Member State; and

(c) functional co-operation, including –

(i) the efficient operation of certain common services and activities for the benefit of its peoples;

(ii) the promotion of greater understanding among its peoples and the advancement of their social, cultural and technological development;

(iii) activities in the fields specified in the Schedule and referred to in Article 18 of this Treaty.

Article 5
General Undertaking as to Implementation

Member States shall take all appropriate measures, whether general or particular to ensure the carrying out of obligations arising out of this Treaty or resulting from decisions taken by the Conference and Institutions of the Community. They shall abstain from any measures which could jeopardise the attainment of the objectives of this Treaty.

CHAPTER TWO - ORGANS OF THE TREATY

Article 6
Principal Organs

The principle organs of the Community shall be –

(a) the Conference of Heads of government (hereinafter referred to as "the Conference");

(b) the Common Market Council established under the Annex (hereinafter referred to as "the Council").

Article 7
The Conference

Composition

The Conference shall consist of the Heads of Government of Member States.

Any member of the Conference may, as appropriate, designate an alternate to represent him at any meeting of the Conference.

Article 8
Functions and Powers

1. The primary responsibility of the Conference shall be to determine the policy of the Community.

2. The Conference may establish, and designate as such, institutions of the Community in addition to those specified in paragraphs (a) to (g) of Article 10 of this Treaty, as it deems fit for the achievement of the objectives of the Community.

3. The Conference may issue directions of a general of special character as to the policy to be pursued by the Council and the Institutions of the Community for the

achievement of the objectives of the Community, and effect shall be given to any such directions.

4. Subject to the relevant provision of this Treaty, the Conference shall be the final authority for the conclusion of treaties on behalf of the Community and for entering into relationships between the Community and International Organisations and States.

5. The Conference shall take decisions for the purpose of establishing the financial arrangements necessary for meeting the expenses of the Community and shall be the final authority on questions arising in relation to the financial affairs of the Community.

6. The Conference may regulate its own procedure and may decide to admit at its deliberations observers, representatives of non-Member States or other entities.

7. The Conference may consult with entities and other organisations within the region and for this purpose may establish such machinery as it deems necessary.

Article 9
Voting in the Conference

1. Each member of the Conference shall have one vote.

2. The Conference shall make decisions and recommendations by the affirmative vote of all its members.

3. A decision shall be binding upon each Member State to which it is directed. A recommendation shall have no binding force. Where, however, a Member State fails to observe a recommendation of the Conference, it shall submit a report to the Conference as early as practicable and in any event not later than six months thereafter, giving reasons for its non-compliance.

4. For the purposes of this Article, abstentions shall not be construed as impairing the validity of decisions or recommendations of the Conference provided that not less than three-quarters of its members including at least two of the More Developed Countries vote in favour of any decision or recommendation.

Article 10
Institutions of the Community

Institutions of the Community shall be –

(a) the Conference of Ministers responsible for Health

(b) the Standing Committee of Ministers responsible for Education

(c) the Standing Committee of Ministers responsible for Labour

(d) the Standing Committee of Ministers responsible for Foreign Affairs

(e) the Standing Committee of Ministers responsible for Finance

(f) the Standing Committee of Ministers responsible for Agriculture

(g) the Standing Committee of Ministers responsible for Mines

(h) the Standing Committee of Ministers responsible for Industry

(i) the Standing Committee of Ministers responsible for Transportation

(j) any other institution that may be established and designated as such by the Conference in accordance with Article 8.

Article 11
Composition of Institutions of the Community

1. Each Institutions of the Community as set out in paragraphs (a) to (i) of Article 10 of this Treaty shall consist of representatives of Member States. Each Member State shall designate a Minister of Government as its representative on each such Institution.

2. Where the Minister designated under paragraph 1 of this Article is unable to attend a meeting of the Institution the Member State may designate any other person as an alternate to attend such meeting in his stead.

3. Where the Conference establishes any other Institutions in the exercise of the power conferred on it by paragraph 2 of Article 8 of this Treaty, the composition of such Institution shall be determined by the Conference.

Article 12
Functions and Powers

1. Subject to the relevant provisions of Article 8 of this treaty, the Institutions of the Community shall formulate such policies and perform such functions as are necessary for the achievement of the objectives of the Community within their respective spheres of competence.

2. The Institutions of the Community may regulate their own procedure and –

(a) may establish such subsidiary committees, agencies and other bodies as they consider necessary for the efficient performance of their functions; and

(b) may decide to admit at their deliberations observers, representatives of non-Member States or other entities.

Article 13
Voting in Institutions

1. Each Member State represented on an Institution shall have one vote.

2. Unless otherwise provided for, decisions of an Institution shall be made by an affirmative vote of all its members. For the purposes of this paragraph, abstentions shall not be construed as impairing the validity of decisions of an Institution provided that not less than three-quarters of its members including at least two of the More Developed Countries vote in favour of such decisions.

3. Recommendations shall be made by a two-thirds majority vote of all its members including at least two of the More Developed Countries and shall have no binding force. Where a Member State fails to observe a recommendation of an Institution in whole or in part, it shall submit a report to the Institution making the recommendation as early as practicable and in any event not later than six months after receiving notice of such recommendation giving reasons for its non-compliance.

4. Observers at meetings of Institutions shall not have the right to vote.

Article 14
Associate Institutions

1. The following institutions shall be recognised as Associate Institutions of the Community -

(a) The Caribbean Development Bank;

(b) the Caribbean Investment Corporation;

(c) the West Indies Associated States Council of Ministers;

(d) the East Caribbean Common Market Council of Ministers;

(e) the Caribbean Examinations Council;

(f) the Council of Legal Education;

(g) the University of Guyana;

(h) the University of the West Indies;

(i) the Caribbean Meteorological Council;

(j) the Regional Shipping Council;

(k) any other institution designated as such by the Conference.

2. The Community shall seek to establish such relationships with its Associate Institutions as will promote the achievement of its objectives.

Article 15
The Community Secretariat

1. The Commonwealth Caribbean Regional Secretariat shall be recognised as the Community Secretariat. The Community Secretariat (hereinafter referred to as "the Secretariat") shall be the principal administrative organ of the Community. The headquarters of the Secretariat shall be located in Georgetown, Guyana.

2. The Secretariat shall comprise a Secretary-General and such staff as the Community may require. The Secretary-General shall be appointed by the Conference (on the recommendation of the Council) for a term not exceeding 5 years and may be reappointed by the Conference. He shall be the chief administrative officer of the Community.

3. The Secretary-General shall act in that capacity in all meetings of the Conference, the Council and of the Institutions of the Community. The Secretary-General shall make an annual report to the Conference on the work of the Community.

4. In the performance of their duties the Secretary-General and his staff shall neither seek nor receive instructions from any government whether of Member States or otherwise or from any other authority. They shall refrain from any action which might reflect on their position as officials of the Community, and shall be responsible only to the Community.

5. Each Member State undertakes to respect the exclusively International character of the responsibilities of the Secretary-General and his staff and shall not seek to influence them in the discharge of their responsibilities.

6. The Conference shall approve the Staff Regulations governing the operations of the Secretariat.

7. The Secretary-General shall approve Staff Rules for the operation of the Secretariat.

Article 16
Functions of the Secretariat

The functions of the Secretariat shall be as follows –

(a) to service meetings of the Community and any of its Institutions or Committees as may from time to time be determined by the Conference;

(b) to take appropriate follow-up action on decisions made at such meetings;

(c) to initiate, arrange and carry out studies on questions of economic and functional co-operation relating to the region as a whole;

(d) to provide services to Member States at their request in respect of matters relating to the achievement of the objectives of the Community;

(e) to undertake any other duties which may be assigned to it by the Conference or any of the Institutions of the Community.

CHAPTER THREE

CO-ORDINATION AND FUNCTIONAL CO-OPERATION

Article 17
Co-ordination of Foreign Policies

1. To the end that Member States aim at the fullest possible co-ordination of the foreign policies within their respective competencies and seek to adopt as far as possible common positions in major international issues there is hereby established a Standing Committee of Ministers responsible for Foreign Affairs.

2. The Committee shall have the power to make recommendations to the Governments of Member States represented on the Committee.

3. Only Member States possessing the necessary competence with respect to matters under consideration.

4. Where after the coming into force of the Treaty a Member State achieves full sovereign status State shall elect whether it wishes to be bound by the provisions of this Article.

5. The recommendations of the Committee shall be made by an affirmative vote of all the Member States competent and participating in the deliberations.

The provisions of Article 13 shall not apply to this Article.

Article 18
Functional Co-operation

Without prejudice to the requirements of any other provisions of this Treaty, Member States in furtherance of the objectives set out in Article 4 of this Treaty, undertake to make every effort to co-operate in the areas set out in the Schedule to this Treaty.

Article 19
Settlement of Disputes

Any dispute concerning the interpretation or application of this Treaty, unless otherwise provided for and particularly in Article 11 and 12 of the Annex, shall be determined by the Conference.

CHAPTER FOUR - GENERAL AND FINAL PROVISIONS

Article 20
Legal Capacity

1. The Community shall have full juridical personality.

2. Each Member State shall in its territory accord to the Community the most extensive legal capacity accorded to legal persons under its municipal laws including the capacity to acquire and transfer moveable and immovable property and to sue and be sued in its own name. In any legal proceedings the Community shall be represented by the Secretary-General of the Secretariat.

3. The Community may enter into agreement with Member States, non-Member States and International Organisations.

4. Each Member State hereby agrees to take such action as is necessary to make effective in its territory the provisions of this Article and shall promptly inform the Secretariat of such actions.

Article 21
Privileges and Immunities

1. The privileges and immunities to be recognised and granted be the Member States in connection with the Community shall be laid down in a Protocol to this Treaty.

2. The Community shall conclude with the Government of the Member States in which the Headquarters of the Secretariat is situated an agreement relating to the privileges and immunities to be recognised and granted in connection with the Secretariat.

Article 22
Signature

This Treaty shall be open for signature on the 4th July, 1973 by any State mentioned in paragraph 1 (a) of Article 2 of this Treaty.

Article 24
Entry into Force

This Treaty shall enter into force on the 1st August 1973; if instruments of ratification have been previously deposited in accordance with Article 23 of this Treaty by the States mentioned in Article 2 paragraph 1 (a) (iii), (vii), (viii) and (xiii), and if not, then on such later date on which the fourth such instrument has been so deposited.

Article 25
Registration

This Treaty and any amendments thereto shall be registered with the Secretariat of the United Nations.

Article 26
Amendments

1. Save as otherwise provided for in Article 66 of the Annex, upon a decision of the Conference for this purpose, this Treaty may be amended by the Contracting Parties.

2. Any such amendment shall enter into force one month after the date on which the last of the instruments of Ratification is deposited.

3. Notwithstanding paragraph 1 hereof no amendments may be made to the Treaty prior to May 1, 1974.

Article 27
Withdrawal

1. A Member State may withdraw from the Community by giving notice in writing to the Secretariat and the Secretariat shall promptly notify the other Member States. Such withdrawal shall take effect 12 months after the notice is received by the Secretariat.

2. A Member State so withdrawing undertakes to honour any financial obligations duly assumed during its membership of the Community.

Article 28
Negotiation and Conclusion of Agreements

1. For the purpose of negotiating agreements, the Conference may designate any institution of the Community to carry out negotiations.

2. Unless otherwise determined by the Conference in any particular case, the conclusion of agreements by the Community shall be undertaken by the Conference.

Article 29
Accession to the Treaty

1. Any State or Territory of the Caribbean Region may apply to the Conference to become a member of the Community and may, if the Conference so decides, be admitted to membership in accordance with paragraph 2 of this Article.

2. Admission to membership shall be upon such terms and conditions as the Conference may decide and shall take effect from the date on which an appropriate instrument of accession is deposited with the Secretariat.

Article 30
Associate Membership

1. Any State which in the opinion of the Heads of Government Conference is qualified for membership of the Community in accordance with paragraph 1 (b) of Article 2 of this Treaty may, upon application to the Conference for associate membership of the Community, be admitted as an associate member of the Community in accordance with paragraph 2 of this Article.

2. On an application made under paragraph 1 of this Article the Conference shall determine the conditions under which the applicant State may be associated with the Community.

Article 31
Saving

1. Member States that are not also members of the Common Market shall not be entitled to participate in the decisions taken under the Treaty relating to the Common Market.

2. Decisions taken under this Treaty requiring such action shall be subject to the relevant constitutional procedures of the respective Member States.

3. Where necessary, Member States undertake to take steps as expeditiously as possible to give full effect in law to all decisions of the organs and institutions of the Community which are binding on them.

4. Member States shall not participate in decisions with respect to the subject of which they do not possess the necessary competence.

Article 32
Status of the Annex And Schedule

The Annex and Schedule to this Treaty shall for an integral part of this Treaty.

Article 33
General Provisions of the Common Market

The provisions of the Annex shall govern the establishment. Membership and operation of the Common Market.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorised thereto by their respective Governments, have affixed their signatures below this Treaty.

Done at Chaguaramas on the fourth day of July in the year one thousand nine hundred and seventy-three.

ANNEX TO THE TREATY
THE CARIBBEAN COMMON MARKET

PREAMBLE

The governments of the contracting states:

Noting that the Agreement establishing the Caribbean Free Trade Association had expressly foreshadowed "the ultimate creation of a viable economic community of Caribbean Territories."

Recognising that over the past five years the Caribbean Free Trade Association has laid the foundation for further progress in regional economic integration;

Mindful of their different levels of development and of the need to enable all Member States to share equitably in the benefits of regional economic integration;

Convinced that closer economic integration among Member States will contribute to the creation of a viable economic community of the Commonwealth Caribbean Countries;

Acknowledging that it is the intention to establish a Common External tariff as an integral feature of the Caribbean Common Market;

Have agreed as follows:

CHAPTER ONE - PRINCIPLES

Article 1
Establishment of the Caribbean Common Market

There is hereby established a Caribbean Common Market (hereinafter referred to as the 'Common Market') which shall have the membership, powers and functions hereinafter specified.

Article 2
Membership

1. (a) Membership of the Common Market shall be open to –

(i) Antigua
(ii) Barbados
(iii) Belize
(iv) Dominica
(v) Grenada
(vi) Guyana
(vii) Jamaica
(viii) Montserrat

(ix) St. Kitts-Nevis-Anguilla
(x) St. Lucia
(xi) St. Vincent
(xii) Trinidad and Tobago

(b) any other State of the Caribbean Region that is in the opinion of the Conference of Heads of government (hereinafter referred to as the 'Conference') mentioned in Article 6 of the Treaty establishing the Caribbean Community, able and willing to exercise the rights and assume the obligations of membership in accordance with Article 65 of this Annex.

2. States listed in paragraph 1(a) of this Article the Governments of which are parties to the Treaty establishing the Caribbean Community (hereinafter referred to as the 'Treaty') shall become members of the Common Market, and in this Annex the term Member States shall, unless the context otherwise requires, refer to Members of the Common Market.

Article 3
Objectives of the Common Market

The Common Market shall have as its objectives –

(a) the strengthening, coordination and regulation of the economic and trade relations among Member States in order to promote their accelerated harmonious and balanced development;

(b) the sustained expansion and continuing integration of economic activities, the benefits of which shall be equitably shared taking into account the need to provide special opportunities for the Less Developed Countries;

(c) the achievement of a greater measure of economic independence and effectiveness of its Member States in dealing with states, groups of states and entities of whatever description.

Article 4
General Undertaking as to Implementation

Member States shall take all appropriate measures, whether general or particular to ensure the carrying out of the obligations arising out of this Annex, or resulting from decisions taken by the Organs and Institutions of the Common Market. They shall facilitate the achievement of the objectives of the Common Market. They shall abstain from any measures which could jeopardise the attainment of the objectives of the Annex.

CHAPTER TWO - ORGANS OF THE COMMON MARKET THE COUNCIL

Article 5
Establishment

1. There shall be established a Common Market Council (hereinafter referred to as "the Council") which, subject to paragraph 3 of Article 8 of the Treaty, shall be the principal organ of the Common Market.

2. Each Member State shall be represented on the Council.

Article 6
Composition

1. The Council shall consist of one Minister of Government designated by each Member State.

2. Where the Minister designated under paragraph 1 of this Article is unable to attend a meeting of the Council the Member State may designate any person as an alternate to attend in his stead.

Article 7
Functions and Powers

1. The Council shall, in order to ensure the achievement of the objectives set out in this Annex and in accordance with the provisions thereof, be responsible for:

(a) exercising such powers and performing such duties as are conferred or imposed upon it by this Annex;

(b) ensuring the efficient operation and development of the Common Market including the settlement of problems arising out of its functioning;

(c) keeping this Annex under constant review with a view to making proposals to the conference for the progressive development of the Common Market;

(d) receiving and considering references alleging breaches of any obligations arising under this Annex and deciding thereon;

(e) considering what further action should be taken by Member States and the Common Market and making proposals to the Conference to facilitate the establishment of closer economic and commercial links with other States, association of States or international organisations.

2. The Council may regulate its own procedure including the establishment of such committees and other bodies as it may deem necessary to perform its functions and may decide to admit to its deliberations observers, representatives of non-Member States or other entities.

Article 8
Voting

1. Each Member State represented on the Council shall have one vote.

2. Except in so far as this Annex provides otherwise, decisions and recommendations of the Council shall be made by an affirmative vote of all it representatives.

3. A decision shall be binding upon each Member State to which it is directed. A recommendation shall have no binding force.

4. For the purposes of this Article, abstentions shall not be construed as impairing the validity of decisions or recommendations of the Council provided that not less than two-thirds of all Member States including at least two of the More Developed Countries vote in favour of any decision or recommendation.

5. References in this Annex to majority vote shall be construed as requiring the affirmative vote of not less than two-thirds of all Member States including at least two of the More Developed Countries.

Article 9
The Common Market Secretariat

The Secretariat referred to in Article 15 of the Treaty shall be the Secretariat responsible for the administrative functions of the Common Market.

Article 10
Functions of the Secretariat

The Secretariat shall –

(a) service meetings of the Common Market and any of its Committees;

(b) take appropriate follow-up action on decisions made at such meetings;

(c) initiate, arrange, and carry out studies on questions of economic integration relating to the Region;

(d) provide services to Member States at their request in respect of matters relating to the achievement of the objectives of the Common Market;

(e) undertake any other duties which may be assigned to it by the Council.

Article 11
Disputes Procedure Within the Common Market

1. If any Member State considers that any benefit conferred upon it by this Annex or any objective of the Common Market is being or may be frustrated and if no satisfactory settlement is reached between the Member States concerned any of those Member States may refer the matter to the Council.

2. The Council shall promptly, make arrangements for examining the matter. Such arrangements may include a reference to a Tribunal constituted in accordance with Article 12 of this Annex. The Council shall refer the matter at the request of any Member State concerned to the Tribunal. Member States shall furnish all information which

may be required by the Tribunal or the Council in order that the facts may be established and the issue determined.

3. If in pursuance of the foregoing provisions of this Article the Council or the Tribunal, as the case may be, finds that any benefit conferred on a Member State by this Annex or any objective of the Common Market is being or may be frustrated, the Council may, by majority vote, make to the Member State concerned such recommendations as it considers appropriate.

4. If a Member State to which a recommendation is made under paragraph 3 of this Article does not or is unable to comply with such recommendation the Council may, by majority vote, authorise any Member State to suspend in relation to the Member State which has not complied with the recommendation the application of such obligations under this Annex as the Council considers appropriate.

5. Any Member State may at any time while any matter is under consideration under this Article request the Council to authorise, as a matter or urgency, interim measures to safeguard its position. If the matter is being considered by the Tribunal such request shall be referred by the Council to the Tribunal for is recommendation. If it is found by a majority vote of the Council that the circumstances are sufficiently serious to justify interim action, and without prejudice to any action which it may subsequently take in accordance with the preceding paragraphs of this Article, the Council may, by majority vote, authorise a Member State to suspend its obligations under this Annex to such an extent and for such period ad the Council considers appropriate.

Article 12
Reference To Tribunal

1. The establishment and composition of the tribunal referred to in Article 11 of this Annex shall be governed by the following provisions of this Article.

2. For the purposes of establishing and *ad hoc* tribunal referred to in Article 11 of this Annex, a list of arbitrators consisting of qualified jurists shall be drawn up and maintained by the Secretary-General. To this end, every Member State shall be invited to nominate two persons, and the names of the persons so nominated shall constitute the list. The term of an arbitrator, including that of any arbitrator nominated to fill a vacancy, shall be five years and may be renewed.

3. Each party to the dispute shall be entitled to appoint from the list an arbitrator to an *ad hoc* tribunal. The two arbitrators chosen by the parties shall be appointed within 30 days following the date on which the notification was received by the Secretary-General. The two arbitrators shall within 15 days following the date of the last of their own appointments, appoint a third arbitrator from the list who shall be the chairman; as far as practicable the chairman shall not be a national of any of the parties to the dispute.

4. Where the first two arbitrators fail to appoint a chairman within the period prescribed, the Secretary-General shall within 15 days following the expiry of that period appoint a chairman. If any party fails to appoint an arbitrator within the period prescribed for such an appointment, the Secretary-General shall appoint an arbitrator within 15 days following the expiry of such a period. Any vacancy shall be filled in the manner specified for the initial appointment.

5. Where more than two Member States are parties to a dispute, the parties concerned shall agree among themselves on the two arbitrators to be appointed from a list. In the absence of such appointment within the prescribed period, the Secretary-General shall appoint a sole arbitrator whether from the list or otherwise, for the purpose.

6. An *ad hoc* tribunal shall decide its own procedure and may, within the consent of the parties to the dispute, invite any party to this Annex to submit its views orally or in writing.

7. The Secretary-General shall provide the *ad hoc* tribunal with such assistance and facilities as it may require.

8. The expenses of the *ad hoc* tribunal shall be defrayed in such a manner as determined by the Council.

9. Member States undertake to employ the procedures set out in this Article for the settlement of any dispute specified in paragraph 1 of Article 11 and to refrain from any other method of disputes settlement.

CHAPTER THREE - TRADE LIBERALISATION

Article 13
Exclusion from this Annex

1. Subject to the provisions of this Article, nothing in this Annex shall be taken to prevent the Member State concerned from imposing import duties or quantitative restrictions on the products listed in Schedule 1 to Annex for such periods as are specified therein for the purpose of giving effect to any undertaking by such Member States respecting import duties or quantitative restrictions.

2. Each Member State shall take all responsible steps to open to it in connection with any undertaking referred to in paragraph 1 of this Article in order to implement any of its obligations under this Annex respecting import duties or quantitative restrictions on such products.

3. Where no expiry date is specified in Schedule 1 to this Annex, the Member State concerned shall take all reasonable steps open to it to implement any of its obligations in respect of commodities under this Annex respecting corresponding import duties or quantitative restrictions on such products at the earliest practicable date.

4. Where in consequence of any Member State availing itself of any exemption under paragraphs 1 to 3 any other Member State considers that a benefit conferred on it by this Annex respecting import duties or quantitative restrictions on such products is being or may be frustrated, that other Member State may refer the matter to Council.

5. Upon reference under paragraph 4 of this Article the Council mar, unless the matter is otherwise resolved, authorise upon such terms and conditions as it thinks fit the Member State making the reference to suspend, in relation tot he Member State availing itself of the exemption, the performance of such of its obligations in respect of commodities under this Annex respecting import duties or quantitative restrictions on such products as the Council considers appropriate.

6. The Council shall keep under continuous review the observance by Member States of the Provisions of paragraphs 2 and 3 of this Article and may from time to time, by majority vote, recommend to any Member State such measures as it thinks fit for th purposes of those paragraphs.

Article 14
Common Market Origin

1. Subject to the provisions of this Article, in this Annex goods that are consigned from a Member State to a consignee in another Member State and that comply with either of the following conditions shall be treated as being of Common Market origin, that is to say, the goods must -

(a) have been wholly produced within the Common Market; or

(b) have been produced within the Common Market wholly or partly from materials imported from outside the Common Market or of undetermined origin by a process which effects a substantial transformation characterised –

(i) by the goods being classified in a tariff heading different from that in which any of those materials is classified; or

(ii) in the case of the goods listed in Part A of the List in Schedule II (hereinafter referred to as "the List"), only be satisfying the conditions therefor specified in that Part; or

(iii) in the case of goods listed in Part C of the List, by satisfying the conditions therefor specified in that Part.

2. In the case of goods specified in Part B of the List, the conditions to be complied with shall be as set out in that Part of the List with effect from the dates appearing against the respective goods in lieu of the conditions applicable prior to those dates in respect of each of those goods.

3. In the case of the goods specified in Part C of the List, the conditions set out in that Part are alternative to the conditions set out in paragraph 1 (b) (i) of this Article.

4. The Council in respect of the goods of tariff heading ex 62.02 may, upon a request by any of the Less Developed Countries, review the conditions to be complied with.

5. Goods which undergo a process of repair, renovation or improvement within the Common Market having been consigned for that purpose from a Member State to a consignee in another Member State shall, on their return to the Member State whence they were exported, be treated for the purpose of re-importation only in like manner as goods which are of Common Market origin, provided that the goods are reconsigned directly to the Member State whence they were exported and the value of materials imported from outside the Common Market or of undetermined origin which have been used in the process of repair, renovation or improvement does not exceed -

(a) in the case where the goods have undergone the process of repair, renovation or improvement in a More Developed Country, 65 per cent of the cost of repair, renovation or improvement;

(b) in the case where the goods have undergone the process of repair, renovation or improvement in a Less Developed Country, 80 per cent of the cost of repair, renovation or improvement.

6. Where there is an interruption or inadequacy of supplies of regional materials and the manufacturer of goods, for which the qualifying condition for Common Market origin is that of "wholly produced" or "produced from regional materials" is unable by reason of circumstances beyond his control to obtain supplies of the regional materials, he shall so inform the Competent Authority.

7. The Competent Authority shall issue to the manufacturer such directions as to quantities of extraregional materials and the period during which importation may be effected and the manufacturer may thereupon import extraregional materials in accordance with such directions.

8. The Competent Authority shall inform the Secretary-General and the supplier of regional materials of the directions given to the manufacturer and the Secretary-General shall within seven days of the receipt of the information from the Competent Authority cause investigations to be made into the circumstances giving rise to the importation of materials from without the Region and upon being satisfied that the importation was justified, issue on behalf of the Council a certificate to the Competent Authority and inform Member States that goods manufactured from such materials shall, notwithstanding anything to the contrary in the foregoing provisions of this Article, be deemed to satisfy the qualifying condition for Common Market origin.

9. In this Article, "Competent Authority" means the Minister so designated in the country of the manufacturer.

10. Nothing in this Annex shall prevent a Member State from treating as of Common Market origin any imports consigned from another Member State, provided that the like imports consigned from any Member State are accorded the same treatment.

11. The provisions of Schedule II shall apply to and have effect for the purposes of this Article. The Council shall keep that Schedule and in particular the List under continuous review and may amend the Schedule in order to ensure the achievement of the objectives of the Common Market.

Article 15
Import Duties

1. Except as provided in Article 52 and Schedule III to this Annex Member States shall not apply any import duties on goods of Common Market origin.

2. Nothing in paragraph 1 of this Article shall be construed to extend to the imposition of non-discriminatory internal charges on any products or a substitute not produced in the importing Member State.

3. For the purposes of this Article and Schedule III to this Annex the term "import duties" means any tax or surtax of customs and any other charges of equivalent effect whether fiscal, monetary or exchange, which are levied on imports except duties notified under Article 17 of this Annex and other charges which fall within that Article.

4. Nothing in paragraph 3 of this Article shall be construed to exclude from the application of paragraph 1 of this Article any tax or surtax of customs on any product or a substitute not produced in the importing State.

5. This Article does not apply to fees and similar charges commensurate with the cost of services rendered.

Article 16
Export Drawback

1. Each Member State may refuse to treat as of Common Market origin goods which benefit from export drawback allowed by Member States in which the goods have undergone the processes of production which form the basis of the claim to Common Market origin. In applying this paragraph, each Member State shall accord the same treatment to imports consigned from all Member States.

2. For the purposes of this Article -

(a) 'export drawback' means any arrangement for the refund or remission, wholly or in part, of import duties applicable to imported materials, provided that the arrangement, expressly or in effect, allows refund or remission if certain goods or materials are exported, but not if they are retained for home use;

(b) 'remission' includes exemption for materials brought into free ports and other places which have similar customs privileges;

(c) 'duties' means

(i) all charges on or in connection with importation, except fiscal charges to which Article 17 of this Annex applies; and

(ii) any protective element in such fiscal charges;

(d) 'materials' and 'process of production' have the meanings assigned to them in Rule 1 of Schedule II to this Annex.

Article 17
Revenue Duties and Internal Taxation

1. Except as provided in Article 52 of and Schedule IV to this Annex Member States shall not -

(a) apply directly or indirectly to imported goods any fiscal charges in excess of those applied directly or indirectly to like domestic goods, or otherwise apply such charges so as to protect like domestic goods; or

(b) apply fiscal charges to imported goods of a kind which they do not produce, or which they do not produce in substantial quantities, in such a way as to protect the domestic production of substitutes which enter into direct competition with them and which do not bear, directly or indirectly, in the country of importation, fiscal charges of equivalent incidence.

2. A Member State shall notify the Council of all fiscal charges applied by it where, although the rates of charge, or the conditions governing the imposition or

collection of the charge, are not identical in relation to the imported goods and to the like domestic goods, the Member State applying the charge considers that the charge is, or has been made, consistent with sub-paragraph (a) of paragraph 1 of this Article. Each Member State shall, at the request of any other Member State, supply information about the application of paragraph 1 of this Article.

3. For the purposes of this Article and Schedule IV to this Annex –

(a) 'fiscal charges' means revenue duties, internal taxes and other internal charges on goods;

(b) 'revenue duties' means customs duties and other similar charges applied primarily for the purpose of raising revenue; and

(c) 'imported goods' means goods which are treated as of Common Market origin.

Article 18
Prohibition of Export Duties

1. Member States shall not apply any export duties.

2. Nothing in this Article shall preclude any Member State from taking such measures as are necessary to prevent evasion, by means of re-export, of duties which it applies to exports to territories outside the Common Market.

3. For the purposes of this Article, 'export duties" means any duties or charges with equivalent effect imposed on or in connection with the exportation of goods from any Member State to a consignee in any other Member State.

4. Notwithstanding paragraph 1 of this Article, a Member State may for a period not exceeding 5 years from the date of entry into force of this Annex, apply to any commodity listed in Schedule V, export duties not exceeding those applied immediately before that date.

5. Any Member State that, pursuant to paragraph 4 of this Article, applies export duties to any commodity listed in Schedule V shall notify the Council of such duties. The Council shall keep such export duties under review and may at any time by majority vote make recommendations to the Member State concerned so as to avoid as far as possible any adverse consequences on any other Member State.

Article 19
Dumped and Subsidised Imports

1. Nothing in this Annex shall prevent any Member State from taking action against dumped or subsidised imports that conform with any other international obligations.

2. Any products which have been exported from one Member State to a consignee in another Member State and have not undergone any manufacturing process since exportation shall, when re-ported into the first Member State be admitted free of quantitative restrictions or measures with equivalent effect. Such products shall also be admitted free of customs duties or charges with equivalent effect except that any

allowance by way of drawback, relief from duty or otherwise, given by reason of the exportation from the Member State, may be recovered.

3. If any industry in a Member State is suffering or is threatened with material injury as the result of the import of dumped or subsidised products into any other Member State, the latter Member State shall, at the request of the former Member State, examine the possibility of taking in conformity with any other international obligations, action to remedy the injury or prevent the threatened injury.

Article 20
Freedom of Transit

1. Products imported into, or exported from, a Member State shall enjoy freedom of transit within the Common Market and shall only be subject to the payment of the normal rates for services rendered.

2. For the purposes of paragraph 1 of this Article, 'transit' means transit within the meaning of Article V of the General Agreement on Tariffs and Trade.

Article 21
Quantitative Import Restrictions

1. Except where otherwise provided in this Annex, and particularly in Articles 13, 23, 24, 28, 29 and 56 in Schedules vii, viii, ix, x and xi, a Member State shall not apply any quantitative restrictions on the import of goods which are of Common Market origin.

2. "Quantitative restrictions" mean prohibitions or restrictions on imports into, or exports from, any other Member State, as the case may be, whether made effective through quotas, import licences or other measures with equivalent effect, including administrative measures and requirements restricting imports or exports.

3. This Article shall not prevent any Member State from taking such measures as are necessary to prevent evasion of any prohibitions or restrictions which it applies to imports from outside the Common Market. In taking action in pursuance of the foregoing provisions, a Member State shall not accord to products imported from other Member states treatment less favourable than that accorded to products imported from third countries.

Article 22
Quantitative Export Restrictions

1. Except where otherwise provided in this Annex, and particularly in Articles 23 and 24 and in Schedules viii, ix and xi a Member State shall not apply any quantitative restrictions on exports to any other Member State.

2. This Article shall not prevent any Member State from taking such measures as are necessary to prevent evasion of any prohibitions or restrictions which it applies to exports outside the Common Market, provided that less favourable treatment is not granted to member States than to countries outside the Common Market.

Article 23
General Exceptions

Nothing in Articles 21 and 22 of this Annex shall prevent the adoption or enforcement by any Member State of measures –

(a) necessary to protect public morals;

(b) necessary for the prevention of disorder or crime;

(c) necessary to protect human, animal or plant life or health;

(d) 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 of special privileges;

(e) necessary o protect industrial property or copyrights or to prevent deceptive practices;

(f) relating to gold or silver;

(g) relating to the products of prison labour;

(h) imposed for the protection of national treasures of artistic, historic or archaeological value;

(i) necessary to prevent pr relieve critical shortages of foodstuffs in any exporting Member State; or

(j) relating to the conservation of exhaustible natural resources;

but only if such measures are not used as a means of arbitrary or unjustifiable discrimination between Member States, or as disguised restriction on trade within the Common Market.

Article 24
Security Exceptions

1. Nothing in this Annex shall prevent any Member State from taking action which it considers necessary for the protection of its essential security interests.

2. Nothing in this Annex shall prevent any Member State from taking action in pursuance of any obligations to which it is subject for the purpose of maintaining international peace and security.

Article 25
Government Aids

1. Except as provided in this Annex, a Member State shall not maintain or introduce –

(a) the forms of aid to export of goods to any other part of the Common Market of the kinds which are described in Schedule vi to this Annex; or

(b) any other forms of aid, the main purpose or effect of which is to frustrate the benefits expected from such removal or absence of duties and quantitative restrictions as is required by this Annex.

2. If the application of any form of aid by a Member State, although not contrary to paragraph 1(b) of this Article, nevertheless frustrates the benefits expected from such removal or absence or duties and quantitative restrictions as is required by this Annex, the Council may, by majority vote, authorise any Member State to suspend in relation to the Member State which is applying the aid the application of such obligations under this Annex as the Council considers appropriate, provided always that the procedure set out in paragraphs 3 to 5 of Article 11 of this Annex has been followed.

3. This Article shall not apply in respect of trade within the Common Market in any agricultural products until such time as Member States agree upon a Common Market policy with respect to the production and marketing, including the subsidisation, of agricultural products.

4. The Council may amend the provisions of Schedule vi of this Annex.

Article 26
Public Undertakings

1. Member States shall ensure the elimination in the practices of public undertakings, of -

(a) measures the effect of which is to afford protection to domestic production which would be inconsistent with this Annex if achieved by means of a duty or charge with equivalent effect or quantitative restrictions or Government aid; or

(b) trade discrimination on grounds of territorial origin in so far as it frustrates the benefits expected from such removal or absence of duties and quantitative restrictions as is required by this Annex.

2. In so far as Article 25 of this Annex is relevant to the activities of public undertakings, that Article shall apply to them in the same way as it applies to other enterprises.

3. Member States shall ensure that new practices of the kind described in paragraph 1 of this Article are not introduced.

4. For the purposes of this Article, 'public undertakings' means central, regional, or local government authorities, public enterprises and any other organisation by means of which a Member State by law or in practice controls or appreciably influences imports from, or exports to any other part of the Common Market.

5. This Article shall not apply in respect of trade within the Common Market in agricultural products until such time as Member States agree upon a Common Market Policy with respect to the production and marketing, including the subsidisation, of agricultural products.

Article 27
Co-operation in Customs Administration

Member States shall take appropriate measures, including arrangements regarding administrative co-operation to ensure that the provisions of Article 14, 15, 16 and 17 and Schedules ii, iii, iv of this Annex are effectively and harmoniously applied, taking into account of the need to reduce as far as possible the formalities imposed on trade

and of the need to achieve mutually satisfactory solutions of any difficulties arising out of the operation of these provisions.

Article 28
Import Restrictions Arising from Balance of Payments Difficulties

1. Notwithstanding Article 21 of this Annex a Member State may, consistently with any international obligations to which it is subject, introduce quantitative restrictions on imports for the purpose of safeguarding its balance of payments.

2. A Member State taking measures in accordance with paragraph 1 of this Article shall notify them to the Council, if possible, before they come into force. The Council shall examine the situation and keep it under review and may at any time by majority vote make recommendations designed to moderate any damaging effect of these restrictions or to assist the Member State concerned to overcome its difficulties. If the balance of payments difficulties persist for more than 18 months and the measures applied seriously disturb the operation of the Common Market, the Council shall examine the situation and may, taking into account the interests of all Member States, by majority vote, devise special procedures to attenuate or compensate for the effect of such measures.

3. A Member State which has taken measures in accordance with paragraph 1 of this Article shall have regard to its obligations to resume the full application of Article 21 of this Annex and shall, as soon as its balance of payments situation improves, make proposals to the Council on the way in which this should be done. The Council, if it is not satisfied that these proposals are adequate, may recommend the Member States alternative arrangements to the same end. Decisions of the Council pursuant to this paragraph shall be made by majority vote.

Article 29
Difficulties in Particular Industries

1. If, in a Member State -
   (a) any industry or particular sector of an industry experiences serious difficulties due to a substantial decrease in internal demand for a domestic product; and
   (b) this decrease in demand is due to an increase in imports consigned from other Member States as a result of the establishment of the Common Market, that Member State may, notwithstanding any other provisions of this Annex –
      (i) imit those imports by means of quantitative restrictions to a rate not less than the rate of such imports during any period of 12 months which ended within 12 months of the date on which the restrictions came into force; the restrictions shall not be continued for a period longer than 18 months, unless the Council, by majority vote, authorise their continuance for such further period and on such conditions as the Council considers appropriate; and

(ii) take such measures, either instead of or in addition to restrictions of imports in accordance with sub-paragraph (i) of this paragraph, as the Council, may by majority vote authorise.

2. In applying measures in accordance with paragraph 1 of this Article, a Member State shall give like treatment to imports consigned from all Member States.

3. A Member State applying restrictions in accordance with sub-paragraph (i) of paragraph 1 of this Article shall notify them to the Council, if possible, before they come into force. The Council may at any time consider these restrictions and may, by majority vote, make recommendations designed to moderate any damaging effect of those restrictions or to assist the Member State concerned to overcome its difficulties.

Article 30
Restrictive Business Practices

1. Member States recognise that the following practices are incompatible with this Annex in so far as they frustrate the benefits expected from such removal or absence of duties and quantitative restrictions as is required by this Annex -

(a) agreements between enterprises and concerted practices between enterprises which have as their object or result the prevention, restriction or distortion of competition within the Common Market;

(b) actions by which one or more enterprises take unfair advantage of a dominant position within the Common Market or a substantial part of it.

2. If any practice of this kind described in paragraph 1 of this Article is referred to the Council in accordance with Article 11 of this Annex the Council may, in any recommendation in accordance with paragraph 3 or in any decision in accordance with paragraph 4 of that Article, make provision for publication of a report on the circumstance of the matter.

3. (a) in the light of experience, the Council shall, as soon as practicable, consider whether further or different provisions are necessary to deal with the effect of restrictive business practices or dominant enterprises on trade within the Common Market.

(b) Such review shall include consideration of the following matters –

(i) specification of restrictive business practices or dominant enterprises with which the Council should be concerned;

(ii) methods of securing information about restrictive business practices or dominant enterprises;

(iii) procedures for investigation;

(iv) whether the right to initiate inquiries should be conferred on the Council

(c) The Council may decide to make the provisions found necessary as a result of the review envisaged in sub-paragraphs (a) and (b) of this paragraph.

4. Member States undertake to introduce as soon as practicable uniform legislation for the control of restrictive practices by business enterprises giving particular attention to the practices referred to in paragraph 1 of this Article.

CHAPTER FOUR - COMMON PROTECTIVE POLICY

Article 31
Establishment of Common External Tariff

Member States agree to establish and maintain a common external tariff in respect of all commodities imported from third countries in accordance with a plan and schedule to be adopted immediately upon the entry into force of this Annex, provided that –

(a) In so far as the Less Developed Countries, except Belize and Montserrat, are concerned, their existing Tariffs under the East Caribbean Common Market shall be deemed as fulfilling their initial obligations in relation to the Common External Tariff of the Caribbean Common Market.

(b) Wherever the Plan and Schedule of rate in the existing Customs Tariff of the East Caribbean Common Market differ from those in the Common External Tariff of the Caribbean Common Market, the Plans and Schedules of rates in both the East Caribbean Common Market and the Caribbean Common Market Tariffs will be subject to annual review in the light of the prevailing economic situation of the Less Developed Countries for the purpose of determining the appropriate Plan and Schedule that will be introduced provided that the introduction of such a Plan and Schedule will commence not later than 1st August, 1977 and the phasing period will end not later than 1st August, 1981.

(c) In so far as Belize and Montserrat are concerned, their existing Tariffs on 1st May, 1974 shall be deemed as fulfilling their initial obligations in relation to the Common External Tariff of the Caribbean Common Market. They hall progressively phase their tariffs in accordance with the annual reviews mentioned in paragraph (b) of this provision; provided that, in the case of Montserrat, the introduction of the Plan and Schedule will commence not later than 1st August,1981, and the phasing period will end not later than 1st August, 1985.

Article 32
Operation of the Common External Tariff

1. Any alteration or suspension of the Common External Tariff on any item shall be decided by the Council by unanimous vote.

2. During the transitional period in respect of any item, a Member State may decide as a temporary measure to reduce or suspend a duty in its national tariff for the purpose of domestic price control provided that goods originating from Member States on which duties are payable are accorded treatment no less favourable. Any such action shall be promptly reported to the other Member States through the Secretariat. If any

Member State so requests, the Council shall hold consultations on the matter and my by majority vote make such recommendations as it considers appropriate to mitigate any damaging effects of such reduction or suspension of duty on the exports of the Member States concerned.

3. Where a commodity is not being produced in one or more Member State or is being produced but in insufficient quantities to satisfy the requirements of the Common Market, the Council may decide to authorise the reduction or suspension of the tariff in respect of imports of that commodity subject to such terms and conditions as it may decide, provided that in no case shall the commodity imported from third countries be accorded more favourable treatment than similar products produced by Member States.

4. Before the 15th August, 1973, every Member State shall notify to the Council the duties applied on all goods imported from non-member countries immediately before the entry into force of this Annex.

5. Upon the expiration of the period of three years from the entry into force of the Common External Tariff the Council shall review such rates as are posing or as are likely to pose difficulties in their application.

Article 33
Treatment of Imports from Third Countries

1. During the transitional period, that is, until the 1st August, 1981, Member States individually or otherwise undertake to pursue such policies regarding quantitative restrictions on imports from third countries as would facilitate the implementation of a common protective policy for the Common Market as soon as practicable after the transitional period. The Council may make recommendations to Member States for this purpose.

2. As soon as possible after the entry into force of this Annex Member States shall notify to the Council all existing quantitative restrictions applied on imports from third countries. Any new quantitative restrictions shall be promptly notified to the Council.

3. The Council of Ministers shall keep under continuous review the application of quantitative restrictions by Member States whether on an individual, sub-group or Common Market basis and shall make such recommendations to Member States as it considers necessary.

Article 34
External Trade Policy

1. Member States shall seek a progressive co-ordination of their trade relations with third countries or groups of third countries.

2. Member States undertake to transmit to the Secretariat particulars of any trade or aid agreements entered into after the entry into force of this Annex.

CHAPTER FIVE - ESTABLISHMENT, SERVICES AND MOVEMENT OF CAPITAL

Article 35
Establishment

1. Each Member State recognises that restrictions on the establishment and operation of economic enterprises therein by national of other Member States should not be applied, through accord to such persons of treatment which is less favourable than that accorded in such matters to nationals of that Member State, in such a way as to frustrate the benefits expected from such removal or absence of duties and quantitative restrictions as is required by this Annex.

2. Member States shall not apply new restrictions in such a way that they conflict with the principles set out in paragraph 1 of this Article.

3. A Member State shall notify the Council within such period as the Council may decide of particulars of any restrictions which it applies in such a way that persons belonging to another Member State are accorded in the first-mentioned State less favourable treatment in respect of the matters set out in paragraph 1 of this Article than is accorded to persons belonging thereto.

4. The Council shall consider from time to time, whether further or different provisions are necessary to give effect to the principles set out in paragraph 1 of this Article.

5. Nothing in this Article shall prevent the adoption and enforcement by a Member State of measures for the control of entry, residence, activity and departure of persons where such measures are justified by reasons of public order, public health or morality, or national security of that Member State.

6. For the purpose of this Article and Articles 36 and 38 of this Annex -

(a) a person shall be regarded as a national of a Member State if such person

(i) is a citizen of that State;

(ii) has a connection with that State of a kind which entitles him to be regarded as belonging to, or , if it be so expressed, as being a native or resident of the State for the purposes of such laws thereof relating to immigration as are for the time being in force; or

(iii) is a company or other legal person constituted in the Member State in conformity with the law thereof and which that State regards as belonging to it, provided that such company or other legal person has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity, within the Common Market, and which is substantially owned and effectively controlled by persons falling under (i) and (ii) above.

(b) "economic enterprises" means any type of economic enterprises for production of or commerce in goods which are of Common Market origin, whether conducted by individuals or through agencies, branches or companies or other legal persons.

Article 36
Right to Provide Services

1. Each Member State agrees as far as practicable to extend to persons belonging to other Member States preferential treatment over persons belonging to States outside the Common Market with regard to the provision of services.

2. For the purposes of this Article the term "services" shall be considered as services for remuneration provided that they are not governed by provisions relating to trade, the right of establishment or movement of capital and includes, in particular activities of an industrial or commercial character, artisan activities and activities of the professions, excluding activities of employed persons.

Article 37
Movement of Capital

The Council shall examine ways and means for the introduction of a scheme for the regulated movement of capital within the Common Market, giving particular attention to the development needs of the Less Developed Countries and shall recommend to Member States proposals for the establishment of such a scheme.

Article 38
Saving In Respect of Movement of Persons

Nothing in this Treaty shall be construed as requiring or imposing any obligations on a Member States, to grant freedom of movement to persons into its territory whether or not such persons are nationals of other Member States.

CHAPTER SIX - CO-ORDINATION OF ECONOMIC POLICIES AND DEVELOPMENT PLANNING

Article 39
Consultation on Economic Policies

1. Member States recognise that the economic and financial policies of each of them affect the economies of other Member States and intend to pursue those policies in a manner which serves to promote the objectives of the Common Market, in particular but without prejudice to the generality of the foregoing, Member States shall seek as far as practicable to -

(i) co-ordinate their economic policies and for this purpose facilitate collaboration between appropriate ministries, administrative departments and agencies;

(ii) co-ordinate their statistical services in matters affecting the operation of the Common Market; and

(iii) co-ordinate their positions and presentations at all international economic, financial and trade meetings at which they are represented.

2. The Council may make recommendations to Member States on matters relating to those policies and on how best to achieve such co-ordination and collaboration.

Article 40
Harmonisation of Fiscal Incentives

1. Member States shall seek to harmonise such legislation and practices as directly affect fiscal incentives to industry.

2. Member States shall seek also to establish regimes for the harmonisation of fiscal incentives to agriculture and tourism with appropriate differentials in favour of the Less Developed Countries.

3. Member States agree to study the possibility of approximating income tax systems and rates with respect to companies and individuals.

Article 41
Intra-Regional and Extra-Regional Double Taxation Agreements

1. Member States shall approach their negotiations for agreements for the avoidance of double taxation with countries outside the Common Market on the basis of a set of mutually agreed principles.

2. With a view to encouraging the regulated movement of capital within the Common Market, particularly to the Less Developed Countries, Member States agree to adopt among themselves agreements for the avoidance of double taxation.

Article 42
Harmonisation of Laws

1. Member States recognise the desirability to harmonise as soon as practicable such provisions imposed by law or administrative practices as affect the establishment and operation of the Common Market in the following areas;

(a) companies;

(b) trade marks;

(c) patents;

(d) designs and copyrights;

(e) industrial standards;

(f) marks of origin;

(g) labelling of food and drugs;

(h) plant and animal quarantine restrictions;

(i) restrictive business practices;

(j) dumping and subsidisation of exports.

2. The Council shall keep the provisions of this Article under review and may make recommendations for the achievement of this objective.

Article 43
Monetary, Payments and Exchange Rate Policies

1. Member States undertake to permit within the Common Market freedom of payment on -

(a) current account; and

(b) capital account necessary to further the objectives of the Common Market

2. Member States recognising that exchange-rate stability as between themselves is necessary to promote the smooth functioning of the Common Market agree to -

(a) a policy of continuing consultation and the fullest possible exchange of relevant information on monetary payments and exchange rate matters, and

(b) to examine ways and means of harmonising their monetary and exchange rate and payment policies in the interest of the smooth functioning of the Common Market.

3. Member States further agree -

(a) to the policy whereby through arrangements by their Central Banks or Monetary Authorities the notes and coins of other Member States shall be exchanged within their own States at official par value without exchange commission;

(b) to develop arrangements for co-operation in other monetary matters including the operation of a clearing arrangement by their Central Monetary Authorities.

Article 44
Ownership and Control of Regional Resources

1. Member States recognise the need for continuing inflows of extra-regional capital and the urgent necessity to promote development in the Less Developed Countries.

2. Member States shall keep under review the question of ownership and control of their resources with a view to increasing the extent of national participation in their economies and working towards the adoption as far as possible of a common policy on foreign investment.

Article 45
Co-ordination of National Development Planning

1. Member States recognise the desirability of a long-term Common Market Perspective Plan as a framework for co-ordinating their development efforts and agree to work jointly in the formulation of such a Plan.

2. In order to promote maximum complementarity between industries and economic sectors of Member States, each Member State agrees to consult with other

Member States in drawing up its national medium-term operational development plans. Member States shall establish a Committee of Officials in charge of national planning agencies for the purposes of promoting collaboration in development planning.

Article 46
Common Market Industrial Programming

1. Member States undertake to promote a process of industrial development through industrial programming aimed at achieving the following objectives:

(a) the greater utilisation of the raw materials of the Common Market;

(b) the creation of production linkages both within and among the national economies of the Common Market;

(c) to minimise product differentiation and achieve economies of large scale production, consistent with the limitations of market size;

(d) the encouragement of greater efficiency in industrial production;

(e) the promotion of exports to markets both within and outside the Common Market;

(f) an equitable distribution of the benefits of industrialisation paying particular attention to the need to locate more industries in the Less Developed Countries.

2. The Council may make recommendations from time to time to promote achievement of the objectives states in paragraph 1 of this Article.

Article 47
Joint Development of Natural Resources

1. Member States agree to a policy of regular exchange of information on their natural resources with a view to the development of joint projects for the increased utilisation of these resources within the Common Market and to collaborate in promoting research in these areas.

2. With a view to facilitating negotiations with mining companies, Member States agree to exchange information on exploration leases, exploitation licences and on taxation of mining companies.

3. The Council advised by the Standing Committee of Ministers responsible for Mines and Natural Resources may make recommendations for achieving the objectives states in paragraphs 1 and 2 of this Article.

Article 48
Marketing of Agricultural Products

1. Member States agree to work towards the rationalisation of trade within the Common Market in certain selected agricultural products having special regard to the agricultural development of the Less Developed Countries.

2. In pursuance of this objective Member States agree to arrangements for the marketing of oils and fats and other agricultural products as set out in Schedules vii, viii and ix to this Annex.

3. The Council may make recommendations for the development of agricultural trade between Member States.

Article 49
Rationalisation of Agricultural Production

1. Member States agree to adopt a scheme for the rationalisation of agricultural production within the Common Market with a view to promoting complementarity in national agricultural programmes and providing special opportunities for the development of agriculture in the Less Developed Countries.

2. The Scheme shall have the following objectives –

(a) the development of a regional plan for the integration of agricultural development in the Common Market;

(b) the achievement of the optimum utilisation of agricultural resources;

(c) the improvement of the efficiency of agricultural production in order to increase the supply of agricultural products for –

(i) domestic consumption

(ii) export to regional as well as extra-regional markets; and

(iii) inputs for agro-based industries.

(d) replacement of imports on a regional basis;

(e) increasing the income and standard of living of the rural population;

(f) contributing to the achievement of full employment for the peoples of the Common Market;

(g) the provision of greater opportunities to the Less Developed Countries for the expansion of agricultural production for export to markets within and outside of the Common Market.

3. Member States recognise the desirability of joint action in the exporting of non-traditional agricultural products to countries outside the Common Market and agree to the promotion of schemes towards this objective.

4. With regard to the production of non-traditional agricultural products Member States shall pursue a policy of collaboration with a view to improving productivity and promoting a more efficient allocation of the resources of the Common Market giving special consideration to the need for increasing production in the Less Developed Countries.

5. The Council shall keep this Article under review and shall make recommendations to Member States for achieving its objectives.

Article 50
Co-operation in Tourism

Member States agree to collaborate in the promotion and development of the tourist industry within the Common Market.

CHAPTER SEVEN - SPECIAL REGIME FOR THE LESS DEVELOPED COUNTRIES

Article 51
Purpose of the Chapter

The provisions of this Chapter shall have effect for the purposes of establishing within the framework of this Annex a special regime for the Less Developed Countries.

Article 52
Import Duties, Revenue Duties and Internal Taxation

For the purposes of Articles 15 and 17 of this Annex the special arrangements contained in Schedules iii and iv to this Annex concerning import duties, revenue duties and internal taxation shall apply to the Less Developed Countries.

Article 53
Common Market Origin

Member States agree that in the determination and operation of the criterion of substantial transformation pursuant to Article 14 of this Annex, the special needs of the Less Developed Countries shall be taken into account.

Article 54
Harmonisation of Fiscal Incentives

Member States agree that in the establishment of the Scheme for Harmonisation of Fiscal Incentives to Industry provided for in Article 40 of this Annex, the special needs of the Less Developed Countries shall be taken into account.

Article 55
The Common External Tariff and Common Protective Policy

Member States agree that in the establishment of the scheme for a common external tariff provided for in Article 31 of this Annex, the special needs of the Less Developed Countries shall be taken into account.

Article 56
Promotion of Industrial Development in the Less Developed Countries

1. Upon any application made in that behalf by the Less Developed Countries the Council may, if necessary, as a temporary measure in order to promote the development of an industry in any of these States, authorise by majority decision such States to

suspend Common Market tariff treatment of any description of imports eligible thereafter on grounds of production in the other Member States.

2. Upon any application made in that behalf by the Less Developed Countries the Council may, if necessary, as a temporary measure in order to promote the development of an industry in any of these States, authorise by majority decision such States to impose quantitative restrictions on like imports from the other Member States.

3. In the light of the special position of Barbados that State may, in relation to trade with the Less Developed Countries, during the period for which the authorisations referred to in paragraphs 1 and 2 of this Article are in force, suspend Common Market tariff treatment of, or apply quantitative restrictions on, the like description of imports from the Less Developed Countries.

4. The Council may, in taking decisions pursuant to paragraphs 1 and 2 of this Article, impose terms and conditions to which such authorisation shall be subject.

5. For the purpose of this Article a majority means a decision supported by the affirmative votes of all the Less Developed Countries and at least two of the More Developed Countries.

Article 57
Government Aids

Paragraphs 1 (a) of Article 25 of this Annex shall not apply to exports from a Less Developed Country except where such exports are consigned to Barbados.

Article 58
Public Undertaking

Paragraph 1 (a) of Article 26 of this Annex shall not apply to the Less Developed Countries.

Article 59
Financial Assistance from More Developed Countries

1. With a view to promoting the flow of investment capital to the Less Developed Countries, the More Developed Countries agree to co-operate in -

(a) facilitating whether by means of private investment capital or otherwise, joint ventures in those States;

(b) negotiating double taxation agreements in respect of the income from investments in the Less Developed Countries by residents of other Member States, and

(c) facilitating the flow of loan capital to the Less Developed Countries.

2. In furtherance of the objectives stated in paragraph 1 above, primary consideration should be given to ventures which are substantially owned and effectively controlled by nationals of Member States within the meaning of Article 35 of this Annex.

3. Member States agree that in order to promote the development of industries in the Less Developed Countries an appropriate investment institution shall be established.

Article 60
Use of Technological and Research
Facilities in More Developed Countries

The More Developed Countries undertake to provide opportunities for the use of their technological and research facilities by the Less Developed Countries.

Article 61
Special Arrangements for Belize

Without prejudice to any other provision of this Chapter the provisions of Schedule xi to this Annex shall apply for the purpose of establishing additional special arrangements in regard to the participation of Belize in the Common Market.

Article 62
Review of Mechanisms for the
Less Developed Countries

The Council shall review annually the need for strengthening existing mechanisms or introducing new ones to provide greater benefits to the Less Developed Countries and shall submit a Report thereon to the Conference.

CHAPTER EIGHT - GENERAL AND FINAL PROVISIONS

Article 63
Legal Capacity

1. The Common Market shall have international juridical personality.

2. Each Member State shall, in its territory, accord to the Common Market the most extensive legal capacity accorded to legal persons under its municipal law including the capacity to acquire and transfer moveable property and to sue and be sued in its own name. In any legal proceedings, the Common Market shall be represented by the Secretary-General of the Secretariat.

3. Each Member States hereby agrees to take such action as is necessary to make effective in its territory the provisions of this Article and shall promptly inform the Secretariat of such action.

Article 64
Privileges and Immunities

1. The privileges and immunities to be recognised and granted by the Member States in connection with the Common Market shall be laid down in a Protocol to this Annex.

2. The Common Market shall conclude with the Government of the Member State in which its Headquarters is situated an agreement relating to the privileges and immunities to be recognised and granted in connection with the Common Market.

Article 65
Accession

1. A State, mentioned in paragraph 1 (b) of Article 2 of this Annex may become a Member of the Common Market on such terms and conditions as the Conference may determine.

2. Any such State shall deposit on or before a date appointed by the Conference an instrument of accession with the Secretariat which shall transmit certified copies to the Government of each Member State.

3. Upon such deposit the State shall become a member of the Common Market on the appointed date.

Article 66
Amendments

1. Except where this Annex provides otherwise, amendments thereto shall enter into force when they have been approved by the Council and ratified by all Member States in accordance with their respective constitutional procedures.

2. Instruments of ratification shall be deposited with the Secretariat which shall transmit certified copies thereof to each Member State.

Article 67
Recognition of Existing Integration
Arrangement within the Common Market

Nothing in this Annex shall effect any decisions or things done under the East Caribbean Common Market Agreement immediately before the coming into force of this Annex or the continued application and development of that Agreement to the extent that the objectives of that Agreement are not achieved in the application of the objectives of this Annex, provided such application or development does not conflict with obligations under this Annex of the Member States which are Parties to that agreement.

Article 68
Participation in Other Arrangements

Nothing in this Annex shall preclude any Member State from participating in other arrangements to the extent that those arrangements are not incompatible with the obligations of Member States under this Annex.

Article 69
Withdrawal

1. A Member State may withdraw from the Common Market by giving notice in writing to the Secretariat and the Secretariat shall promptly notify the other Member States. Such withdrawal shall take effect twelve (12) months after the notice is received by the Secretariat.

2. A Member State so withdrawing undertakes to honour any financial obligations duly assumed during its membership of the Common Market.

3. A Member State that withdraws from the Treaty in accordance with Article 27 thereof shall, if a member of the Common Market, be deemed to have withdrawn from the Common Market with effect from the expiration of the time limited by the said Article 27.

Article 70
Relations With Other States and International Organisations

1. The Council may, on behalf of the Common Market, negotiate agreements with Member States, non-Member States and other International Organisations in order to promote the objectives of the Common Market.

2. Such agreements, however, shall be subject to ratification by the Conference.

Article 71
Transitional Provisions

On entry into force of this Annex in accordance with the provisions of Article 24 of the Treaty, the Agreement establishing the Caribbean Free Trade Association done at Dickenson Bay, Antigua, on the fifteenth day of December, 1965, and the Supplementary Agreement under Article 31(3) of the former Agreement done at Georgetown, Guyana, on the fifteenth day of March 1968 and at St. John's Antigua, on the eighteenth day of March 1968, shall be superseded by the provisions of this Annex as between the Parties to whom the provisions of this Annex apply.

Article 72
Associate Membership

1. Any state which in the opinion of the Conference is qualified for membership of the Common Market in accordance with Article 2. 1(b) of this Annex may, upon application to the Council for associate membership of the Common Market, be admitted as an associate member of the Common Market in accordance with paragraph 2 of this Article.

2. On any application made under paragraph 1 of this Article the Conference shall determine the conditions under which the applicant state may be associated with the Common Market.

Article 73
Status of Schedules

Schedules to this Annex shall form an integral part thereof.

Part Three

Economic Integration Regimes

11

ASSEMBLY OF CARIBBEAN COMMUNITY PARLIAMENTARIANS

When the Agreement Establishing the Assembly of Caribbean Community Parliamentarians was first opened for signature on February 19, 1992, only two Member States of the Community signed the constituent instrument. Prime Minister Sandiford of Barbados, who was the moving light behind the institution, was in danger of being the only signatory on that fateful day, until Mr. Hoyte of Guyana, after a disturbing and embarrassing hiatus of several minutes, rose from his seat to append his signature to the Agreement. This event, more than any other, demonstrates the diffidence of Member States to this institution in its early years.

Perceptions about the role and desirability of establishing the Assembly were largely informed by the federal experiment in political integration which terminated in 1962, and by the relevant provisions of the constituent instrument of this institution. As mentioned in the introduction to this work, the collapse of the Federation had a negative effect on movements toward integration for a very long time. So much so that the original Treaty of Chaguaramas was constrained to establish a bifurcated Caribbean Community and Common Market as separate juridical entities. Consequently, there was little or no support for the initiative of the Barbadian Prime Minister and the Prime Minister of Dominica is on record as refusing to finance the participation of members of the opposition in any regional endeavour.

The Assembly consists of representatives of Member States and Associate Members elected by their Parliaments or appointed in such manner from their membership as the Parliaments decide. It is understood that a Parliamentary delegation should consist of representatives of both government and opposition reflecting their representation in the Parliament as far as practicable, subject to a ceiling of four representatives each from Member States and two each from Associate Members. Representatives are entitled to have alternates who may attend meetings of the Assembly and to vote and speak in the Assembly when the representatives are absent.

The objects of the Assembly are to involve the people of the Community, through their representatives, in the process of consolidating and strengthening the Community; to provide opportunities for involvement in the issues of the integration process by members of Parliament in each Member State and Associate Member, in addition to those who now participate; to provide a forum for people of the Community to make their views known through their representatives; to provide more frequent contact in the monitoring of the policies of the Community; to provide enhanced opportunities for

the coordination of the foreign policies of Member States; to promote greater understanding among Member States and Associate Members for the purpose of realising and safeguarding the ideals and principles of democratic governments in the Community and facilitating the economic and social advancement of their peoples; and, to encourage the adoption by the Governments of Member States of the Community of a common policy on economic, social, cultural, scientific and legal matters deliberated upon by the Assembly.

Given the functions of the Assembly identified in Article 5 of the Agreement, there was a general perception that the Assembly was unlikely to be anything other than a dysfunctional talk shop which would present opposition parties with a political stick to beat incumbent Governments without making any positive contribution to national economic and social development. In this connection it is important to note that the Assembly was only empowered to make recommendations and these could not be on issues considered to be exclusively within the national jurisdictions of Member States of the Community. Based on these perceptions, signatures for the Agreement were extremely slow in forthcoming despite vigorous prompting from various quarters supportive of the Assembly. Consequently, it was only in 1996 that the Assembly had its first session and to date only two sessions have been held.

Despite the foregoing, the Assembly has deliberated on several issues of critical importance to the regional integration movement and has given the regional opposition parties an opportunity to voice their opinions on issues of significance. One such issue is the Caribbean Court of Justice. Given the importance of this institution both in the exercise of its original and appellate jurisdictions and the political controversy its establishment has generated, it is necessary that the relevant decisions should be bipartisan. This is all the more important since the proceedings of the Court will affect stakeholders on both sides of the political spectrum. The deliberations of the Assembly have offered an excellent opportunity for a bipartisan approach to the establishment of this important institution. The documentation prepared for the Assembly by the CARICOM Secretariat to aid discussion of issues on the Order Paper of the Assembly is made available to all members of the Assembly affording members of the opposition to be informed about the issues. It is significant that the Assembly has endorsed the establishment of the Caribbean Court of Justice.

In this connection it has been pertinently observed that "one of the criticisms of policy makers of the Region is their overweening preoccupation with national issues, and their diffidence in enlightening their populations about developments in the regional integration movement. These criticisms are likely to continue, since issues on the regional agenda are rarely seem to impact one way or another in the outcome of the electoral process at the national plane with which decision makers are quintessentially concerned. In the premises, the Assembly must be appreciated as remedying this inadequacy in the regional integration process by involving the representatives of the people of both government and opposition in regional issues of importance[1].

Notes

1. D.E. Pollard, "CARICOM in the New Millennium" in K.O. Hall, *The Caribbean Community : Beyond Survival*, Ian Randle Publishers, Kingston, 2001 p.264

AGREEMENT FOR THE ESTABLISHMENT OF AN ASSEMBLY OF CARIBBEAN COMMUNITY PARLIAMENTARIANS

THE TENTH MEETING OF THE CONFERENCE OF HEADS OF GOVERNMENT OF THE CARIBBEAN COMMUNITY HELD AT GRAND ANSE, GRENADA, FROM 3RD TO 7TH JULY, 1989, having determined that there should be established an ASSEMBLY OF CARIBBEAN COMMUNITY PARLIAMENTARIANS as a deliberative body for deepening the Integration Movement;

THE CONTRACTING PARTIES HEREBY AGREE AS FOLLOWS:

Article 1
Definitions

In this Agreement, unless the context otherwise requires:

"Associate Institution" means any Institution recognised or designated as an Associate Institution of the Community under Article 14 of the Treaty;

"Associate member" means any Country admitted as an Associate Member of the Community by the Conference and a Party to this Agreement;

"Community" means the Caribbean Community established by the Treaty;

"Council" means the Common Market Council established under the Annex to the Treaty;

"Conference" means the Conference of Heads of Government of the Caribbean Community;

"Institution" means an Institution established and designated under Article 10 of the Treaty;

"Member State" means a Member State of the Community Party to this Agreement;

"Parliament" includes the Legislature of a Member State or an Associate Member;

"Secretariat" means the Community Secretariat;

"Secretary-General" means the Secretary-General of the Community;

"Treaty" means the Treaty establishing the Caribbean Community and Common Market done at Chaguaramas on the 4th July, 1973.

Article 2
Establishment

Member States hereby establish an Assembly of Caribbean Community Parliamentarians having the membership, powers and functions hereinafter specified.

Article 3
Membership

1. The Assembly shall consist of representatives of Member States and Associate Members elected by their Parliaments or appointed in such manner from their membership as the Parliaments shall decide.

2. Each Member State shall be entitled to not more than four representatives at meetings of the Assembly and each Associate Member shall be entitled to not more than two representatives.

3. There shall be elected or appointed by the respective Parliaments of Member States or Associate Members from their Membership alternates for the representatives of Member States or Associate Members who shall be entitled to attend meetings of the Assembly and to speak and vote in the Assembly in the absence of the member of the Assembly for whom the alternate has been elected or appointed.

Article 4
Objectives of the Assembly

The objectives of the Assembly shall be:

(a) to involve the people of the Community, through their representatives, in the process of consolidating and strengthening the Community;

(b) to provide opportunities for involvement in the issues of the integration process by members of Parliament in each Member State and Associate Member, in addition to those who now participate;

(c) to provide a forum for people of the Community to make their views known through their representatives;

(d) to provide more frequent contact in the monitoring of the policies of the Community;

(e) to provide enhanced opportunities for the coordination of the foreign policies of Member States;

(f) to promote greater understanding among Member States and Associate Members for the purpose of realising and safeguarding the ideals and principles of democratic governments in the Community and facilitating the economic and social advancement of their peoples;

(g) to encourage the adoption by the Governments of Member States of the Community of a common policy on economic, social, cultural, scientific and legal matters deliberated upon by the Assembly.

Article 5
Functions and Powers

1. The Assembly shall be a deliberative and consultative body for the discussion of policies, programmes and other matters falling within the scope of the Treaty.

2. In carrying out its function pursuant to this Agreement, the Assembly may:

(a) make recommendations to the Conference, the Council, Institutions, Associate Institutions, and the Secretariat;

(b) request from the bodies listed in sub-paragraph (a) of this paragraph information and reports for discussion;

(c) discuss and make recommendations on any matter within the scope of the objectives of the Community;

(d) discuss and make recommendations on any matter referred to it by the Conference, the Council, or any Institution or Associate Institution;

(e) adopt resolutions on any issue or matter arising under the Treaty.

3. The Assembly shall follow accepted parliamentary procedures and practices and, in particular, may:

(a) establish such committees, agencies and other bodies it considers necessary for the efficient performance of its functions; and

(b) admit as observers to its deliberations, representatives of countries not being Member States or Associate Members.

4. It shall not be competent for the Assembly to discuss or adopt any resolution on any matter which is exclusively within the domestic jurisdiction of a Member State or Associate Member of the Community and any question whether any matter is within the competence of the Assembly for the purposes of this paragraph shall be decided by the Speaker of the Assembly.

5. Subject to the provisions of this Article and Article 6, the Assembly shall have power to regulate its own proceedings, including the adoption of Standing Orders.

Article 6
Meetings

1. The Assembly shall meet at least once in every year with meetings rotating among Member States and Associate Members, as far as practicable.

2. Other Meetings of the Assembly may be convened by the Speaker of the Assembly with the concurrence of the majority of the Members of the Assembly.

3. At each meeting of the Assembly, the representatives of Member States shall elect from among their number a Speaker who shall preside in the Assembly and shall have only a casting vote.

4. Member States and Associate Members shall meet the cost of attendance of their representatives at meetings of the Assembly.

5. Each representative of a Member State shall have one vote.

6. Each representative of an Associate Member shall have the right to speak but not to vote in the Assembly.

7. With the permission of the Assembly, observers may speak but not vote in the Assembly.

8. Except as otherwise provided in this Agreement, a decision of the Assembly shall be by a majority vote of the members of the Assembly present and voting.

9. The quorum for a meeting of the Assembly shall be one-third of the representatives of Member States.

10. Meetings of the Assembly shall be conducted in public.

11. The Speaker of the Assembly shall hold office until the election of the next Speaker at a subsequent meeting of the Assembly.

Article 7
Organisation and Management

1. There shall be a Clerk of the Assembly, who shall be the Clerk of the Parliament of the host country.

2. The Secretary-General shall designate a senior official of the Community to:

(a) assist in coordinating the work of the Assembly;

(b) liaise with the principal organs, Institutions, Associate Institutions, and other bodies of the Community, in relation to the deliberations of the Assembly.

3. Administrative and secretarial services for meetings of the Assembly shall be provided by the host country assisted, to the extent possible, by the Secretariat.

Article 8
Implementation

Member States and Associate Members shall take all appropriate measures to:

(a) fulfil obligations undertaken by them under this Agreement;

(b) pursue measures which support the attainment of the objectives of this Agreement.

Article 9
Signature of Agreement

This Agreement shall be open for signature by any Member State of the Community listed in the Annex to this Agreement.

Article 10
Ratification

This Agreement shall be subject to ratification by the signatory Member States in accordance with their respective constitutional procedures. Instruments of Ratification shall be deposited with the Secretary-General who shall transmit certified copies to the Government of each Member State.

Article 11
Entry into Force

This Agreement shall enter into force on the 30th day after the date of the deposit of the seventh Instrument of Ratification by a Member State in accordance with Article 10 of this Agreement.

Article 12
Accession

After the entry into force of this Agreement, any new Member State or any Associate Member of the Community wishing to become party to this Agreement shall deposit an appropriate Instrument of Accession with the Secretary-General and such Accession shall take effect thirty days after the receipt of the Instrument. The Secretary-General shall transmit a certified copy of the Instrument to the Government of each Member State or Associate Member of the Community.

Article 13
Amendments

1. A proposal for the amendment of this Agreement adopted by a majority of the representatives present and voting and representing three-fourths of the Parties to this Agreement, if approved by the Conference, shall be subject to ratification or acceptance by the Parties to this Agreement.

2. Every such amendment shall enter into force thirty days after the deposit of the last Instrument of Ratification or Acceptance with the Secretary-General who shall notify the Parties to this Agreement of the entry into force of the amendment.

Article 14
Withdrawal

1. A Member State or Associate Member of the Community which withdraws from membership of the Community in accordance with Article 27 of the Treaty shall, if party to this Agreement, be deemed to have withdrawn from this Agreement with effect from the expiration of the time limited by that Article.

2. Without prejudice to paragraph 1 of this Article, a Member State or Associate Member may withdraw from this Agreement by giving notice in writing to the Secretary-General who shall promptly notify the other Parties to this Agreement. Such withdrawal shall take effect twelve months after receipt of the notice by the Secretary-General.

3. A Member State or Associate Member undertakes to honour any financial obligations duly assumed by it while it continues to be a Party to this Agreement.

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

Done in a single copy which is deposited with the Secretary-General who shall transmit certified copies to all Parties to this Agreement.

12

CARICOM SOCIAL SECURITY AGREEMENT

When the Conference of Heads of Government convened in Grand Anse, Grenada, in 1989 for their tenth meeting, one of the most far-reaching determinations they made was to establish a CARICOM Single Market and Economy. Subsequently, the Heads of Government also decided that university graduates and persons with certain other categories of skills, e.g. media workers, sports persons, artistes and musicians, should enjoy the right to reside and work in any Member State of their choice. It was always understood that this right would be qualified by the right of the host Member State to take such action as may be considered necessary for the protection of its security interests. This right of movement would have proved to be illusory unless the persons entitled were accorded other contingent rights like the right to take social security benefits earned in one jurisdiction to another jurisdiction of choice.

With the provisional application of Protocol II, now Chapter Three of the Revised Treaty of Chaguaramas, Community nationals were granted the right of establishment and the right to provide services. One implication of this is that independent contractors who voluntarily subscribed to social security schemes may have wished to transfer their benefits to jurisdictions of their employment. The benefits covered in the Agreement are invalidity pensions; disablement pensions; old age or retirement pensions and death benefits in the form of pensions. Article 5 of the Agreement provides that unless otherwise specified in the Agreement, these benefits provided for in the applicable legislation of Contracting Parties should not be reduced, modified, suspended or forfeited by reason only of the fact that the claimant is resident in the territory of another Contracting Party other than that of the Contracting Party where the competent institution liable to pay such benefits is situated. Furthermore, where the applicable legislation of a Contracting Party makes entitlement to voluntary insurance conditional upon completion of a specified number of insurance periods, the competent institution must take into account all insurance periods completed under the applicable legislation of other Contracting Parties.

Articles 16, 17, 18 and 19 of the Agreement are critical for the effectiveness of the social security arrangements contemplated. Article 16 provides that where an insured person satisfies the conditions for a benefit in one or more jurisdictions, that person is entitled to the benefit in accordance with the applicable legislation of each jurisdiction. Where the applicable legislation makes entitlement to benefits conditional on the completion of a specified number of insurance periods and the provisions of Article 16 do not apply, Article 17 provides that the competent institution shall take into account

all insurance periods completed under the applicable legislation of other Contracting Parties to determine satisfaction of the qualifying conditions at the material time. Article 18 provides for the payment of a partial benefit on the satisfaction of specified conditions and Article 19 provides for the apportionment of totalised benefits among the Contracting Parties concerned.

CARICOM AGREEMENT ON SOCIAL SECURITY

The contracting parties:

Considering that one of the aims of the Caribbean Community is the fostering of unity among its members by functional cooperation in the area of social security;

Recognising that harmonisation of the social security legislation of the Member States of the Caribbean Community is one of the ways envisaged to promote functional cooperation and regional unity;

Affirming the principles of equality of treatment for residents of the Contracting Parties under their social security legislation, the maintenance of rights acquired or in the course of acquisition, as well as the protection and maintenance of such rights notwithstanding changes of residence among their respective territories - principles which underlie several of the Conventions of the International Labour Organisation,

Have agreed as follows:

PART I - DEFINITIONS, SCOPE AND GENERAL PROVISIONS

Article 1
Definitions

1. In this Agreement, unless the context otherwise requires:
   (a) "benefit" means a periodical payment in cash in respect of the benefits specified in Article 2, including any components thereof and such increases, supplements or allowances as may be specified in the applicable legislation, and payable for a period exceeding fifty-two weeks;
   (b) "competent authority" means the Minister or other authority of a Contracting Party charged with responsibility for social security;
   (c) "competent institution" means -
      (i) the institution with which the person concerned is insured when claiming a benefit; or
      (ii) the institution from which a claimant is entitled to receive, or would be entitled to receive, a benefit if such a claimant were resident in the territory of the Contracting Party where that institution is situated; or
      (iii) the institution designated by the competent authority of the Contracting Party concerned;

(d) "competent jurisdiction" means the territory of the Contracting Party where the competent institution is situated;

(e) "Contracting Party" means any country which has signed and ratified this Agreement in accordance with paragraphs 1, 2 and 3 of Article 59 or has acceded thereto in accordance with paragraph 4 of Article 59 or in accordance with Article 60 and for which the Agreement is in force;

(f) "dependant" means -

(i) a member of the family of an insured person and who is dependent on that person; or

(ii) some person who, though not being such a family member, is recognised as such by the applicable legislation; or

(iii) a surviving spouse of an insured person whether or not dependent on that person;

(g) "institution" means the body responsible for administering the applicable legislation;

(h) "Insurance period" means the contribution period defined or recognised as such by or under the applicable legislation;

(i) "insured person" means an employed or a self-employed person, or any other person recognised as such by or under the applicable legislation;

(j) "applicable legislation" means the relevant laws governing social security for the time being in force in the territory of a Contracting Party;

(k) "place of residence" means ordinary place of residence;

(l) "stay" means temporary residence;

(m) "survivor" means a person -

(i) defined or recognised as such by the applicable legislation, and

(ii) who is entitled to claim through an insured person dying in consequence of an employment injury or otherwise, and "survivors' benefit" shall be construed accordingly.

2. Other words and expressions used in this Agreement have the meanings respectively assigned to them by the applicable legislation.

Article 2
Scope of Agreement

The provisions of this Agreement shall apply to the following payments of social security:

(a) invalidity pensions;

(b) disablement pensions;

(c) old age or retirement pensions;

(d) survivors' pensions; and

(e) death benefits in the form of pensions

Article 3
Application of the Agreement

1. The provisions of this Agreement shall be applied to insured persons who are or have been subject to the applicable legislation of one or more Contracting Parties as well as to their dependants or survivors, as the case may be.

2. The provisions of this Agreement shall not be applied to diplomatic agents within the meaning of the Vienna Convention on Diplomatic Relations (1961), Consular Officers within the meaning of the Vienna Convention on Consular Relations (1963), or to persons of equivalent rank in international organisations of which a Contracting Party is a member.

Article 4
Determination of Contribution Periods for Voluntary Insurance

Where the applicable legislation of a Contracting Party makes entitlement to voluntary insurance conditional upon the completion of a specified number of insurance periods, the competent institution shall take into account all insurance periods completed under the applicable legislation of other Contracting Parties as if they were insurance periods completed under its applicable legislation.

Article 5
Reduction, Modification, Suspension, and Forfeiture of Benefits

Unless otherwise specified in this Agreement, the benefits specified in Article 2 and provided for in the applicable legislation of Contracting Parties shall not be reduced, modified, suspended or forfeited by reason only of the fact that the claimant is resident in the territory of a Contracting Party other than that of the Contracting Party where the competent institution liable to pay such benefits is situated.

PART II - PROVISIONS DETERMINING THE LAW TO BE APPLIED TO CERTAIN INSURED PERSONS

Article 6
Exclusivity of Applicable Law

An insured person shall, at the material time, be subject in relation to that person's employment to the applicable legislation of only one Contracting Party.

Article 7
Persons Employed in Transnational Enterprises

Subject to the qualifications specified hereunder, an insured person who is employed in the territory of a Contracting Party shall be subject to the applicable legislation of that Contracting Party even if that person resides in the territory of another Contracting Party or even if the undertaking which employs that person has its principal place of

business, or the residence of that person's employer is situated, in the territory of another Contracting Party:

(i) an employed person who is employed in the territory of a Contracting Party by an undertaking which is that person's regular employer and who is assigned by that undertaking to work for it in the territory of another Contracting Party, shall remain subject to the applicable legislation of the first Contracting Party, provided that the estimated duration of the employment does not exceed twenty-four months;

(ii) where, due to unforeseen circumstances, the work to be performed exceeds the estimated period of twenty four months, the applicable legislation of the Contracting Party in the territory of which the undertaking is located shall remain applicable until the work is completed, subject to agreement to this effect by the competent authorities of the two Contracting parties concerned.

Article 8
Itinerant Employed Persons

Subject to the qualifications specified hereunder, an employed person who is employed in the territory of a Contracting Party shall be subject to the applicable legislation of that Contracting Party even if that person resides in the territory of another Contracting Party or even if the undertaking which employs that person has its principal place of business, or the place of residence of that person's employer is in the territory of another Contracting Party:

(a) an employed person other than one engaged in international transport, who normally works in the territories of two or more Contracting Parties, shall be subject to the applicable legislation of the Contracting Party where that person's place of residence is situated if -

  (i) part of that person's occupation is carried on in the territory of that person's place of residence; or

  (ii) that person is employed by two or more undertakings or employers having their principal places of business or residences, as the case may be, in the territories of different Contracting Parties;

(b) except as provided in sub-paragraph (a), an employed person within the meaning of that sub-paragraph shall be subject to the applicable legislation of the Contracting Party in the territory of which the undertaking employing that person has its principal place of business or the place of residence of that person's employer.

Article 9
Persons Employed in International Transport

Subject to the qualifications specified hereunder, an employed person who is employed in the territory of a Contracting Party shall be subject to the applicable legislation of that Contracting Party even if that person resides in the territory of another Contracting Party or even if the undertaking which employs that person has its principal

place of business, or the place of residence of that person's employer is in the territory of another Contracting Party:

an employed person who is employed in international transport in the territories of two or more Contracting Parties as travelling personnel employed in the service of an undertaking which, on behalf of others or on its own behalf, is engaged in the transport of passengers or goods by road, inland waterway or air shall be subject to -

(a) the applicable legislation of the territory where the principal place of business is located if the principal place of business of the undertaking is in the territory of a Contracting Party;

(b) the applicable legislation of the territory where a subsidiary, branch or agency of an undertaking is located if that person is employed by any of the same and the location is different from the territory in which the principal place of business of that undertaking is situated;

(c) the applicable legislation of the place of residence, if that person is mainly employed in the territory of a Contracting Party in which that person is ordinarily resident even if the undertaking employing that person has neither its principal place of business, nor a branch, subsidiary or agency in that territory.

Article 10
Persons Employed on Ships

Subject to the exceptions set out hereunder, persons employed on board ships flying the flag of a Contracting Party shall be subject to the applicable legislation of that Contracting Party:

(i) employed persons who are employed by an undertaking which is their regular employer, either in the territory of a Contracting Party or on board a ship flying the flag of a Contracting Party, and who are assigned by that undertaking to work for it on board a ship flying the flag of another Contracting Party, shall remain subject to the applicable legislation of the first Contracting Party, subject to the conditions set out in (i) and (ii) of Article 7;

(ii) employed persons normally engaged in their occupations in the territorial waters or in a port of a Contracting Party or on board a ship flying the flag of another Contracting Party but who are not members of the ship's crew shall be subject to the applicable legislation of the first Contracting Party;

(iii) employed persons who are employed on board a ship flying the flag of a Contracting Party and who are paid in respect of their occupation by an undertaking having its principal place of business, or by a person residing, in the territory of another Contracting Party, shall be subject to the applicable legislation of the second Contracting Party if they reside in its territory and the undertaking or person paying the remuneration shall be regarded as the employer for the purpose of the application of the said legislation.

Article 11
Persons Employed in Diplomatic Missions, Consulates and International Organisations

The Provisions of Articles 9, 10 and 11 shall also be applicable *mutatis mutandis* to members of the service staff of diplomatic missions, consulates or international organisations and persons employed in the private service of officials of such organisations but such persons who are nationals of a Contracting Party which is a sending State may opt for the application to them of the relevant legislation of that Contracting Party.

Article 12
Self-Employed Persons

Subject to the qualifications specified hereunder a self-employed person who follows that person's occupation in the territory of a Contracting Party shall be subject to the applicable legislation of that Contracting Party even if that person resides in the territory of another Contracting Party:

(a) a self-employed person who resides in the territory of one Contracting Party and follows that person's occupation in the territory of another Contracting Party shall be subject to the applicable legislation of the first Contracting Party if the second Contracting Party has no legislation applicable to that person;

(b) a self-employed person who normally follows that person's occupation in the territories of two or more Contracting Parties shall be subject to the applicable legislation of the Contracting Party in the territory in which that person resides, if that person works partly in that territory;

(c) where the self-employed person referred to in paragraph (b) does not follow part of that person's occupation in the territory of the Contracting Party where that person resides, or where that Contracting Party has no legislation applicable to that person, that person shall be subject to the legislation agreed on by the competent institutions of the Contracting Parties concerned.

Article 13
Exclusion of Articles 6 to 12 in Respect of Voluntary Insurance

The provisions of Articles 6 to 12 shall not be applicable to voluntary insurance.

Article 14
Entitlement to Membership in Compulsory and Voluntary Insurance Schemes

1. Where the application of the relevant legislation of two or more Contracting Parties would result in the person concerned becoming insured under a compulsory insurance scheme and at the same time permit membership as a voluntary contributor to another compulsory insurance scheme, the person concerned shall be subject only to the applicable legislation of the first-mentioned compulsory insurance scheme.

2. In cases where the application of the relevant legislation of two or more Contracting Parties would permit membership as a voluntary contributor to two or more compulsory insurance schemes, the person concerned shall be entitled to be insured under the insurance of the Contracting Party where that person resides, or if that person is not resident in the territory of one of the Contracting Parties, under the scheme of the Contracting Party the legislation of which last applied to that person.

Article 15
Exclusion of the Provisions of Part II

The competent authorities of two or more Contracting Parties may, by mutual consent, make exceptions to any of the provisions of Articles 6 to 14 in the interests of persons affected thereby.

PART III - PROVISIONS GOVERNING INVALIDITY, OLD AGE, RETIREMENT, SURVIVORS, AND DISABLEMENT PENSIONS, AND DEATH BENEFIT

Article 16
Determination of Benefits

Where an insured person has been subject successively or alternatively to the applicable legislation of two or more Contracting Parties and has satisfied the conditions for a benefit in the jurisdiction of any of those Contracting Parties, such insured person or the survivors of that person, as the case may be, shall be entitled to the benefit in accordance with the applicable legislation of each of the Contracting Parties concerned.

Article 17
Totalisation of Contribution Periods

Where the applicable legislation of a Contracting Party makes entitlement to benefits conditional on the completion of a specified number of insurance periods and Article 16 does not apply, the competent institution shall take account of all insurance periods completed under the applicable legislation of other Contracting Parties in determining the fulfillment of the condition at the material time.

Article 18
Payment of a Partial Benefit

Where, at the material time, a claimant has satisfied the conditions for entitlement to a benefit in the jurisdiction of one Contracting Party but not the conditions for a benefit under the legislation of another Contracting Party in the territory of which the insured person concerned was employed, the competent institution of the other Contracting Party shall pay to such insured person or persons claiming through that person a portion of the benefit to which such person would have been entitled if that person had satisfied the relevant conditions. The portion of the benefit payable shall bear the same ratio which the contributions of that person bear to the total qualifying contributions.

Article 19
Apportionment of Totalised Benefits

1. The competent institution of each Contracting Party shall determine in accordance with the applicable legislation whether and to what extent an insured person or the survivor of that person, as the case may be, satisfies the conditions for entitlement to benefit under Articles 16, 17 or 18.

2. Where the institution concerned determines, by applying the provisions of Article 17, that an insured person satisfies the relevant conditions for entitlement to benefit, such institution shall calculate the notional amount of benefit such person could claim if the contribution periods completed under the legislation of all the Contracting Parties concerned had been completed under its applicable legislation.

3. The actual amount payable by each of the institutions concerned shall bear a direct ratio to the notional amount which the number of insurance periods completed in the territories of the interested Contracting Parties bears to the total number of insurance periods completed in all of their territories.

Article 20
Determination of Liability to Contribute to
the Notional Amount in Certain Circumstances

Where the legislation of an interested Contracting Party requires benefits to be calculated by reference to total insurable earnings or number of contributions, the earnings or contributions to be taken into account by the competent institution of that Contracting Party for the purpose of determining its liability to contribute to the notional amount referred to in paragraph 3 of Article 19 shall be calculated on the basis of the average earnings or the contribution recorded for the periods completed under its applicable legislation.

Article 21
Dependants

Where the applicable legislation of a Contracting Party provides that the amount of the benefits shall vary according to the number of dependants of an insured person, the competent institution shall also take account of dependants resident in the territory of another Contracting Party as if those dependants were resident in the territory of the first Contracting Party.

Article 22
Commencement Date of Payments

1. Where, by the application of Article 17, an insured person is determined to be entitled to a benefit and the qualifying age for the receipt of such benefit varies under the applicable legislation of the interested Contracting Parties, the commencing date for the receipt of such benefit shall be determined by the applicable legislation of the Contracting Party to which such insured person was last subject.

2. Where the qualifying age under the applicable legislation of an interested Contracting Party is lower than the qualifying age under the legislation of the Contracting Party to which the insured person was last subject, the competent institution of the first Contracting Party shall pay directly to the insured person or the survivors of that insured person, as the case may be, from the applicable commencement date, such amounts as represent the liability of the said Contracting Party.

3. Where the qualifying age under the legislation of an interested Contracting Party is higher than the qualifying age under the legislation of the Contracting Party to which the insured person was last subject, the insured person shall not be entitled to receive the portion of the benefit payable by such Contracting Party in accordance with paragraph 3 of Article 19 before attaining the qualifying age stipulated in the applicable legislation of such Contracting Party.

Article 23
Liability for Certain Survivors' Benefits

Where, by the application of Article 17, the survivors of an insured person are determined to be entitled to a benefit which is not provided for under the applicable legislation of one or more interested Contracting Parties, the Contracting Party under the legislation of which such a benefit is provided for shall be liable to pay such portion of the benefit as corresponds to its liability according to the provisions of paragraph 3 of Article 19.

Article 24
Conversion of Invalidity Benefits

1. Subject to the applicable legislation of interested Contracting Parties, invalidity pensions shall, as appropriate, be converted into old age or retirement pensions and the provisions of Articles 16 to 19 of this Agreement shall apply.

2. Where the recipient of an invalidity pension payable under the applicable legislation of one or more interested Contracting Parties becomes entitled to old age or retirement pension, the competent institution of an interested Contracting Party with a continuing liability in that behalf shall continue to pay invalidity pension until the provisions of paragraph 1 hereof become applicable.

PART IV - APPLICATION OF THE AGREEMENT

SECTION 1 - GENERAL PROVISIONS

Article 25
Composition of the Committee

1. The heads of the Social Security Schemes established by the Contracting Parties shall constitute a Committee (hereinafter called "the Committee") which shall settle every administrative question arising out of the provisions of this Agreement without

prejudice to the right of the competent authorities, competent institutions or interested persons to have recourse to the procedures and jurisdictions provided for in the applicable legislation of Contracting Parties.

2. Specimens of certificates, statements, claims, declarations, and other documents required for the application of this Agreement shall be prepared by the Committee.

3. The Committee may assemble information on provisions of the legislation to which this Agreement applies at the request of the competent authorities of any Contracting Party.

4. The Committee may prepare written information for the purpose of informing the persons concerned of their rights and the administrative formalities required to secure them.

Article 26
Access to Competent Institutions

Any institutions of a Contracting Party and any person residing or staying in the territory of a Contracting Party may approach the competent institution of another Contracting Party directly.

Article 27
Supply of Information

1. Each Contracting Party, as soon as possible after this Agreement enters into force, shall supply the Secretary-General of the Caribbean Community (hereinafter referred to as "the Secretary-General") with the following information:

(a) the name or names of the competent authority or authorities;

(b) the name of names of the competent institution or institutions.

2. Any modifications made to the information supplied in accordance with paragraph 1 shall be transmitted to the Secretary-General within three months of the said modifications.

SECTION II - APPLICATION OF PART I OF THE AGREEMENT

Article 28
Submission of Certificates by Claimants

In order to benefit from the provisions of Article 4, the person concerned shall submit to the competent institution of the interested Contracting Party a certificate of the periods of insurance completed under the legislation of any other Contracting Party. The certificate shall be issued at the request of the person concerned or the competent institution by the institution or institutions under the legislation of which the periods in question were completed.

Article 29
Application of Article 5

1. In applying the provisions of article 19, the competent institutions of interested Contracting Parties shall be entitled to take account of the benefits, income or remuneration entailing reduction, suspension or disqualification in respect of the benefits due from it solely for the purpose of the reduction, suspension or disqualification of the amount referred to in paragraph 3 of Article 19.

2. The entitlement referred to in paragraph 1 shall not be exercised to calculate the notional amount referred to in paragraph 2 of Article 19: provided, however, that account shall be taken of such benefits, income or remuneration only to the extent of that fraction of the amount corresponding to the ratio of the periods completed as prescribed in paragraph 3 of Article 19.

3. The provisions of this article shall apply where a person in receipt of a benefit under the applicable legislation of one Contracting Party is also entitled to benefits under the applicable legislation of one or more of the other Contracting Parties.

SECTION III - APPLICATION OF PART II OF THE AGREEMENT

Article 30
Application of Articles 7-10

1. In cases to which sub-paragraph (I) of Article 7, paragraph (a) of Article 9 and sub-paragraph (i) of Article 10 of this Agreement apply, the institution designated by the competent authority of the Contracting Party the legislation of which is applicable shall issue to the employed person at that person's request or on the request of that person's employer, if the required conditions are fulfilled, a certificate of such employment abroad stating that that person is still subject to that legislation.

2. The agreement referred to in paragraph (ii) of Article 7 of this Agreement shall be requested by the employer. The consent of each employed person concerned shall be required if it is so provided in the *applicable* legislation of the Contracting Party referred to in paragraph 1.

Article 31
Application of Articles 8 and 9

Where, under Articles 8 and 9 of this Agreement, the *applicable* legislation of a Contracting Party is applicable to an employed person whose employment is not in the territory of that Contracting Party, that legislation shall apply as if the person were employed at that person's place of residence in the said territory, particularly for determining the competent institution.

SECTION IV - THE AGGREGATION OF INSURANCE PERIODS

Article 32
Application of the Totalisation Principle

1. In the cases referred to in Articles 4 and 17 of this Agreement , insurance periods shall be added together in accordance with the following rules:

(a) to the insurance periods completed under the provisions of the applicable legislation of one Contracting Party shall be added the insurance periods completed under the provisions of the applicable legislation of any other Contracting Party to the extent necessary to make up the total insurance period required under the provisions of the applicable legislation of the first mentioned Contracting Party for the acquisition or maintenance of entitlement to benefit, provided always that these periods do not overlap. In the case of invalidity, old age, retirement or survivors' benefits to be paid by the institutions of two or more Contracting Parties in accordance with the provisions of Article 19 of this Agreement, each of the institutions concerned shall separately add together all the insurance periods completed by the person concerned under the provisions of the applicable legislation of all the Contracting Parties to which that person has been subject;

(b) where a period of compulsory insurance completed under the applicable legislation of one Contracting Party coincides with a period of voluntary insurance completed under the provisions of the applicable legislation of another Contracting party, the first period only shall be taken into account;

(c) where the time at which certain periods of insurance were completed under the provisions of the applicable legislation of a Contracting Party cannot be accurately determined, such periods shall be presumed not to overlap with periods completed under the applicable legislation of another Contracting Party and shall be taken into account as may be necessary;

(d) where, according to the applicable legislation of one Contracting Party, certain insurance periods are taken into account only if they have been completed within a specified time, the institution which applies this legislation shall take into account only periods completed under the provisions of the applicable legislation of another Contracting Party as have been completed within the same specified time.

2. Where under the provisions of the applicable legislation of a Contracting Party a Social Security scheme falling within the scope of this Agreement takes account of insurance periods in respect of schemes not falling within the scope of this Agreement, such insurance periods shall be considered by the Contracting Parties to be taken into account for the purpose of aggregation.

SECTION V - APPLICATION OF PART III OF THE AGREEMENT

Article 33
Application of Article 18

1. In order to benefit from the provisions of Article 18, the Claimant shall submit to the competent institution or institutions of the interested Contracting Party or Contracting Parties, as the case may be, liable to pay a portion of a benefit, a certificate stating that the insured person concerned has satisfied the qualifying conditions for a benefit under the applicable legislation of another Contracting Party.

2. The certificate shall be issued by the competent institution or institutions, as the case may be, of one or more other Contracting Parties under the applicable legislation of which such insured person had qualified for the benefit, at the request of the claimant or the competent institution of the interested Contracting Party against whom the claim for payment of a portion of a benefit has been made.

Article 34
Submission of Claims

1. In order to receive the benefits under Article 16 to 18, 21 and 24 of this Agreement, the claimant shall submit a claim to the institution of the claimant's place of residence in the manner prescribed by the applicable legislation. If the insured person entitled had not been subject to that legislation, the institution of the place of residence shall transmit the claim to the institution or institutions of the Contracting Party or Contracting Parties, as the case may be, to the legislation of which such person was subject and also indicate the date on which the claim was submitted. That date shall then be considered as the date of submission of the claim of the last-mentioned institution.

2. Where the claimant resides in the territory of a Contracting Party to the legislation of which neither the claimant nor the deceased person has been subject, the claimant may submit the claim to the institution of the Contracting Party to the legislation of which the claimant or the deceased person was last subject.

Article 35
Documents To Accompany Claims

1. The submission of the claims referred to in Article 34 shall be subject to the following rules:

(a) the claim shall be accompanied by the requisite supporting documents and shall be submitted on the forms prescribed -

(i) either by the legislation of the Contracting Party in the territory of which the claimant resides, in cases referred to in paragraph 1 of Article 34; or

(ii) by the legislation of the Contracting Party to which the claimant or the deceased person was last subject, in the case referred to in paragraph 2 of Article 34;

(b) the accuracy of the information furnished by the claimant shall be substantiated by official documents attached to the claim form, or corroborated by the authorities of the Contracting Party in the territory of which the claimant resides;

(c) the claimant shall indicate, as far as possible, the invalidity, retirement, old-age, or survivors' benefit institution or institutions of each of the Contracting Parties to the legislation of which the claimant or the deceased has or had been subject, or the employer or employers by whom the claimant or the deceased person has or had been employed in the territory of any Contracting Party, and submit any certificates of employment that may be in the possession of the claimant or had been in the possession of the deceased person.

Article 36
Certification of Dependants

1. In order to benefit from the provisions of Article 21 of this Agreement, the claimant shall, where required, submit a certificate regarding dependants who are residing in the territory of a Contracting Party other than that where the institution which pays the benefit is situated. The certificate shall be issued by the institution designated by the competent authority of the Contracting Party in the territory of which the said dependants reside.

2. The certificate referred to in the preceding paragraph shall be valid for a period of twelve months from the date of issue and shall be renewable. When renewed, its validity shall run from the date of renewal. The claimant shall immediately notify the competent institution of any change to be made in the certificate which shall have effect from the date on which it occurred.

3. Instead of the certificate referred to in paragraph 1 of this Article, the competent institution may require the claimant to submit other relevant documents of proof of relationship of the dependants who are residing in the territory of a Contracting Party other than that of the competent jurisdiction, if such documents are normally issued by authorities of that Contracting Party.

4. The provision of Article 21 and of the preceding paragraphs of this Article are to be construed without prejudice to the consideration of dependants residing outside of the territory of any Contracting Party.

Article 37
Determination of Invalidity

In determining the degree of invalidity the institution of a Contracting Party shall take account of all the medical and administrative information assembled by the institutions of any other Contracting Party, but each institution shall retain the right to have the claimant examined by a doctor of its choice at its own expense.

Article 38
Examination of Claims

1. Claims shall be examined by the institutions to which they have been submitted or to which they have been transmitted, as the case may be, as provided for in Article 34.

2. The examining institution shall immediately advise all the institutions concerned so that the claim may be examined by them simultaneously and without delay.

Article 39
Procedures of Examining Institutions

1. In examining claims, the examining institution shall use a form setting out details of, and the total of, the insurance periods completed by the persons concerned or in respect of the deceased person under the applicable legislation of all the Contracting Parties concerned.

2. The transmission of the form referred to in paragraph 1 to the institution of any other Contracting Party shall be in lieu of the transmission of supporting documents.

Article 40
Duties of Examining Institutions

1. The examining institution shall enter on the form referred to in paragraph of Article 39 the insurance periods completed under the provisions of its own legislation and shall send a copy of the form to the appropriate institution of each Contracting Party to the legislation of which the person concerned or the deceased person has or had been subject and attach employment certificates produced by the claimant.

2. Where only one institution is involved, that institution shall complete the form sent to it in accordance with the provisions of the preceding paragraph indicating the insurance periods completed under its applicable legislation. It shall then determine entitlement under that legislation having regard to the provisions of Article 17, and shall state on the form the notional and actual amount of the benefit calculated in accordance with the provisions of paragraphs 2 and 3 of Article 19 and, where appropriate, the amount of any benefit which could be claimed, without applying the provisions of Article 17 to 21 solely for the periods completed under the provisions of the applicable legislation. The form, which should also contain information concerning the procedure for appeals, including time limits, shall then be returned to the examining institution.

3. Where there are two or more institutions involved, each institution shall complete the form submitted to it in accordance with the provisions of paragraph 1 of this Article, indicating the insurance periods completed under its applicable legislation, and return the form to the examining institution. That institution shall send the completed form to the other institutions involved, each of which shall determine entitlement under its applicable legislation having regard to the provisions of Article 17 and shall state on the form the notional and actual amounts of any benefit which could be claimed, without applying the provisions of Articles 17 to 21 solely for the periods completed under the provisions of the applicable legislation. The form, which should also contain information

concerning the procedure for appeals, including time limits, shall then be returned to the examining institution.

4. Where the examining institution has received all the information referred to in paragraphs 2 and 3 of this Article , it shall determine entitlement under its applicable legislation, having regard to the provisions of Article 17, and shall calculate the notional and actual amounts of the benefit in accordance with the provisions of paragraphs 2 and 3 of Article 19, and where appropriate, the amount of any benefit which could be claimed with applying the provisions of Articles 17 to 21 solely for the periods completed under its applicable legislation.

Article 41
Payment to Claimants

1. If the examining institution determines that the claimant is entitled to benefit under the provisions of its applicable legislation without reference to periods completed under the provisions of the legislation of other Contracting Parties to which the person concerned or the deceased person was subject, it shall make an immediate payment of the benefit directly to the claimant on a provisional basis, subject to the provisions of paragraph 6 of this Article.

2. Where the examining institution pays a benefit under paragraph 1 of this Article, it shall deduct from the amount of such benefit the amount of benefit paid by any other institution as soon as it is ascertained.

3. If, while a claim is being examined, an institution other than the examining institution determines that the claimant is entitled to benefit in accordance with its applicable legislation without having to take account of periods completed under the provisions of the applicable legislation of other Contracting Parties to which the person concerned or the deceased person was subject, it shall pay the claimant the benefit on a provisional basis and advise the examining institution accordingly, without prejudice, however, to the provisions of paragraph 2 of this Article.

4. Where an institution is required to pay a benefit under paragraphs 1 and 3 of this Article, it shall pay only the highest rate of benefit, without prejudice, however, to the provisions of paragraph 2 of this Article.

5. Where the examining institution does not pay a benefit under paragraph 1 of this Article, and in cases where there might be delay, it shall make to the person concerned a recoverable advance determined in accordance with the provisions of paragraphs 1 to 3 of Article 19.

6. When the final settlement of the benefit claimed is determined, the examining institution and other interested institutions shall adjust their accounts as regards the amount of any provisional benefit paid or the advance made in accordance with the relevant provisions of this Article and any sum overpaid by the said institutions may be deducted from the amount of benefits they are required to pay to the persons concerned.

Article 42
Consultations Among Interested Institutions

After the examining institution has consulted with each of the interested institutions and those institutions have agreed on the extent of their liability, the examining

institutions shall inform the claimant of the component part of the total benefit payable by each institution concerned. The examining institution shall also inform the claimant concerning the procedure for appeals, including the limits prescribed by the applicable legislation.

Article 43
Medical Supervision of Beneficiaries

1. If the recipient of any benefit referred to in Article 2 stays or resides in the territory of a Contracting Party other than the competent jurisdiction, administrative and medical supervision shall be exercised at the request of the competent institution by the institution of the place of stay or residence in accordance with the rules prescribed by the applicable legislation of the latter institution but the competent institution may require the recipient to be examined by a medical practitioner of its choice at its own expense.

2. If the supervision referred to in the preceding paragraph reveals that a person receiving a benefit or payment by way of assistance is employed or has means in excess of the prescribed limit, that information and any other information requested shall be reported to the competent institution by the institution of the place of stay or residence.

Article 44
Resumption of Benefits

Where after the suspension of benefits *which* a person had been receiving, that person becomes qualified again for benefits while residing in the territory of a Contracting Party other than the competent jurisdiction, the institution concerned shall exchange all the information necessary to enable the payment of benefits to be resumed.

Article 45
Payment of Benefit in Normal Case

The competent institution of a Contracting Party shall, in the normal case, pay a benefit directly to a beneficiary residing in the territory of another Contracting Party, but where in any particular case the competent institution of a Contracting Party pays a benefit directly to the competent institution of another Contracting Party, the person entitled to such benefit shall be informed accordingly.

Article 46
Notification of Change of Residence

Where the recipient of a benefit payable under the applicable legislation of one or more Contracting Parties transfers the residence of the recipient from the territory of one Contracting Party to that of another Contracting Party the recipient shall notify the competent institution or institutions responsible for the payment of such benefit.

Article 47
Medical Examination of Pensioners

If the recipient of a pension stays or resides in the territory of a Contracting Party other than that of the competent jurisdiction, administrative and medical supervision

and also such medical examinations as are necessary for the revision of pensions shall be carried out at the request of the competent institutions by the institution of the place of stay or residence in accordance with the rules in the applicable legislation of the latter institution, but, the competent institution may require the recipient to be examined by a doctor of its choice at its own expense.

Article 48
Cooperation by Institutions

The institution of the place of residence of a person who has received benefits that were not payable to that person, or the institution designated by the competent authority of the Contracting Party in the territory of which that person resides, shall cooperate with the institution of any other Contracting Party which has paid such benefits if the latter institution seeks recovery from the person in question.

Article 49
Cooperation in Recovering Excess Payments

Where the institution of a Contracting Party has paid to a beneficiary a sum in excess of the beneficiary's entitlement, that institution may request the institution of any other Contracting Party responsible for the payment of corresponding benefits to that person, to deduct the amount overpaid from the payments it is making to the beneficiary. The latter institution shall withhold that amount to the extent to which such a deduction is permissible under the provisions of its applicable legislation as if the overpayment had been made by it and transfer the amount so withheld to the creditor institution.

Article 50
Cooperation in Recovering Advance Payments

Where the institution of a Contracting Party has made an advance payment of benefits, it may request the institution of any other Contracting Party responsible for payment of corresponding benefits to that person to deduct the amount of the advance from the payments due to the person concerned. The latter institution shall transfer the amount withheld to the creditor institution.

Article 51
Payment of Benefits Pending Settlement of Disputes

In the event of a dispute between competent institutions or authorities of two or more Contracting Parties concerning either the legislation applicable under Part II of this Agreement, or the institution which is to provide the benefit, the person who would have been able to claim the benefit in the absence of such a dispute shall provisionally receive the benefit prescribed by the legislation which the institution of the place of residence is to apply or, where the person does not reside in the territory of one of the Contracting Parties concerned, by the legislation of the Contracting Party to which he was last subject. After settlement of the dispute, the cost of the benefits paid provisionally shall be borne by the institution declared liable to pay such benefits.

PART V - MISCELLANEOUS PROVISIONS

Article 52
Communications Between Competent Authorities of Contracting Parties

1. The competent authorities of contracting Parties shall communicate to each other:
   (a) all information concerning measures taken by them for the application of this Agreement;
   (b) all information concerning their legislation which may affect the application of this Agreement; and
   (c) all statistical information concerning beneficiaries and the amount of benefits paid under this Agreement.

2. For the purpose of the application of this Agreement, the competent authorities and competent institutions of the Contracting Parties shall:
   (a) assist one another as if they were applying their own legislation; and
   (b) provide administrative assistance free of charge, but, the competent authorities of the contracting Parties may agree to reimburse certain expenses.

3. For the purpose of the application of this Agreement, the competent authorities and competent institutions of the Contracting Parties may communicate directly with one another and with the persons concerned or their representatives.

Article 53
Non-discrimination for Exemption from Taxes and Duties

Any exemption from, or reduction of, taxes, stamp duty, legal or registration costs specified by the legislation of one Contracting Party with respect to the certificates, documents or other documentary evidence to be submitted under the legislation of that Party shall be extended to cover similar certificates, documents or other documentary evidence to be submitted under the legislation of another Contracting Party or under this Agreement.

Article 54
Time Limit for Submission of Application

1. If the claimant is resident in the territory of a Contracting Party other than that of the competent jurisdiction, the claimant may validly submit the claim to the institution of the claimant's place of residence; which shall refer it to the competent institution or institutions mentioned in the application.

2. Any claim, application, declaration or appeal which should have been made under the legislation of a Contracting Party within a prescribed time to an authority, institution or jurisdiction of that party shall be admissible if it is submitted within the same time to an authority, institution or jurisdiction of another Contracting Party. In such an event, the authority, institution or jurisdiction receiving the claim, application,

declaration or appeal shall transmit it without delay to the competent authority, institution or jurisdiction of the first Contracting Party, either directly or through the competent authorities of the Contracting Parties concerned. The date on which any claim, application, declaration or appeal was submitted to an authority, institution or jurisdiction of the second Contracting Party shall be deemed to be the date on which it was lodged with the competent authority, institution or jurisdiction.

Article 55
Investigations and Medical Examinations

Investigations or medical examinations prescribed by the legislation of one Contracting Party may, at the request of the institution which administers such legislation, be carried out in the territory of another Contracting Party by the institution of the place of stay or residence, and in such a case they shall be deemed to have been made in the territory of the first Contracting Party.

Article 56
Currency of Payment

1. Competent institutions shall discharge their financial obligations under this Agreement in their national currencies, subject to paragraph 2 hereof.

2. Where under this Agreement a competent institution is required to pay a benefit to a beneficiary resident in the territory of another Contracting Party or to another competent institution in such territory, it shall discharge its obligation in the currency of such other Contracting Party.

3. In the application of paragraph 2 hereof, the conversion rate shall be the rate of exchange in effect on the date of payment.

4. Benefits shall be paid to beneficiaries free from any deductions for administrative or other expenses.

Article 57
Disputes Settlement

1. Any dispute arising between two or more Contracting Parties concerning the interpretation or application of this Agreement shall first be subject to negotiation between the Contracting Parties concerned.

2. Where the dispute is not settled within three months from the request for commencement of negotiations as set out in paragraph 1, the dispute shall be submitted to arbitration on the written request of any of the Contracting Parties. Such request shall be addressed to the Secretary-General who shall promptly notify the parties to the dispute of the receipt of the request for arbitration.

3. Any dispute to be submitted to arbitration shall be referred to a tribunal consisting of three arbitrators. Each party to the dispute shall appoint an arbitrator and the two arbitrators so appoint shall appoint the third arbitrator who shall be the chairman. The chairman must be a person with legal qualifications.

4. For the purpose of appointing a tribunal referred to in the preceding paragraph, a list of arbitrators consisting of persons experienced in the practice of social security

shall be drawn up and maintained by the Secretary-General. To this end, every Contracting Party shall be invited to nominate two persons and the names of the persons so nominated shall constitute the list. The term of an arbitrator, including that of any arbitrator nominated to fill a vacancy, shall be three years and may be renewed. The chairman need not be appointed from the list.

5. If within thirty days following the date of notification by the Secretary-General in accordance with paragraph 2 of this Article, either party fails to appoint an arbitrator, any party may request the Secretary-General to appoint the other arbitrator. If within fifteen days of the appointment of the last of the two arbitrators the chairman has not been appointed, either party may request the Secretary-General to appoint the chairman.

6. Where more than two Contracting Parties are parties to a dispute, the parties concerned shall agree among themselves on the arbitrators to be appointed from the list. In the absence of such an appointment within the prescribed period, the Secretary-General shall appoint a sole arbitrator whether from the list or otherwise for the purpose.

7. The arbitral tribunals so established shall make a determination within ninety days from the date of its constitution. The decision of a sole arbitrator or of a majority in other cases shall be accepted by the parties to the dispute as final.

8. The procedure of the tribunal shall be determined by the arbitrators but the chairman shall be empowered to settle all questions of procedure in any case where there is disagreement.

9. The parties to a dispute shall bear the cost of the arbitration equally.

PART VI - TRANSITIONAL AND FINAL PROVISIONS

Article 58
Entitlement Before Agreement is in Force

1. Subject to paragraph 3, where title to benefit arose before the entry into force of this Agreement, the benefits payable under such title shall be dealt with under the appropriate national legislation.

2. Every insurance period completed under the applicable legislation of a Contracting Party before the date on which this Agreement enters into force shall be taken into account for the purpose of determining rights under it.

3. Any benefit which has not been assessed or paid or which has been suspended on account of the residence of the person concerned in the territory of any Contracting Party other than that of the territory where the institution liable to pay the benefit is located shall, by the request of the person concerned, be assessed and paid, or its suspension terminated as from the date this Agreement enters into force.

4. Where the request referred to in the preceding paragraph is made within two years of the date on which this Agreement enters into force, entitlement and rights arising in accordance with the provisions of this Agreement shall be acquired as from that date, and no provision to the contrary in the applicable legislation of any Contracting

Party with respect to entitlement or rights lapsing or becoming statute-barred shall apply to the person concerned.

5. Where the request referred to in paragraph 3 is made more than two years after the date on which this Agreement enters into force, any entitlement or rights which are not held to be statute-barred or to have lapsed shall be payable only from the date on which the request was made, unless there are more favourable provisions in the *applicable* legislation of the Contracting Party concerned.

Article 59
Entitlement to Sign and Ratify, Accept or Accede

1. This Agreement shall be open for signature by the Members of the Caribbean Community and shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Secretary-General.

2. The Agreement shall enter into force on the first day of the third month following that in which the third instrument of ratification or acceptance is deposited with the Secretary-General.

3. Countries ratifying or accepting the Agreement after its entry into force shall become parties thereto one month following the deposit of an appropriate instrument of ratification or acceptance.

4. Countries mentioned in paragraph 1 may accede to the Agreement at any time. Accession shall take effect one month following the deposit of an appropriate instrument of accession.

Article 60
Participation by Other Countries

1. After the entry into force of this Agreement, the Contracting Parties may, by unanimous vote, invite any other country to accede to it.

2. Accession shall be effected by the deposit of an appropriate instrument of accession with the Secretary-General and shall take effect three months after the date of such deposit.

Article 61
Amendments

1. This Agreement may be amended by a two-thirds majority vote of the Contracting Parties.

2. Any such amendment shall enter into force three months thereafter without prejudice to any rights accruing to an insured person or persons claiming through such insured person prior to the amendment.

Article 62
Review of the Agreement

The Contracting Parties may review this Agreement three years after its entry into force.

Article 63
Denunciation

1. Any Contracting Party may denounce this Agreement not less than five years after its entry into force for that Contracting Party by giving notice in writing to that effect to the Secretary-General and withdraw therefrom.

2. Withdrawal shall take effect six months after the date of the written notice mentioned in paragraph 1.

Article 64
Depositary

The Secretary-General shall perform all depositary functions in relation to this Agreement.

Article 65
Termination

1. This Agreement shall terminate if at any time less than three Contracting Parties continue to participate in the regime established by this Agreement. In the absence of such termination, this Agreement shall remain in force indefinitely.

2. In the event of withdrawal from or termination of this Agreement, all rights acquired thereunder shall be maintained, and negotiations shall take place for the settlement of any rights then in the course of acquisition by operation of the provisions hereof.

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

Done at …… this …… day of ……., one thousand nine hundred and ninety-six in a single copy which shall be deposited with the Caribbean Community Secretariat which shall transfer certified copies to all the Contracting Parties.

13

THE CARIBBEAN AGRICULTURAL RESEARCH AND DEVELOPMENT INSTITUTE

The establishment of the Caribbean Agricultural Research and Development Institute (CARDI) in 1975 must be appreciated in the context of the perceptions of the regional political directorate regarding the critical role of agriculture in the economic and social development of the Caribbean Community. This perception was mirrored in the provisions of Article 48 of the Treaty of 1973 which addressed the marketing of agricultural products and of Article 49 which addressed the rationalisation of agricultural production. In the latter context, Member States of the Community agreed to establish a scheme for the rationalisation of agricultural production which would strive, *inter alia*, for optimum utilisation of agricultural resources, integration of regional agricultural development, import substitution of agricultural products, diversification of agricultural production and enhanced exports to extra-regional markets.

Viewed in this light, the objectives of CARDI set out in Article 3 of its constituent instrument may be seen as facilitating the achievement of the objectives of the agricultural programme the Community established for itself. These objectives of CARDI include satisfying the research and development needs of regional agriculture and those of Member States individually; extending the application of new technologies in production, processing, storage and distribution of agricultural products and coordinating the research and development efforts of member States in the area of agriculture. In effect, CARDI was intended to bridge the gap between academic research and the commercialisation of discoveries and inventions in the area of agriculture. For this to be achieved successfully there was need for considerably more interface between CARDI, the University of the West Indies and the manufacturing and industrial communities of the region. The absence of such interface probably explains the lack of any significant innovations by CARDI in the area of research and development and the commercialisation of discoveries.

CARDI was the product of protracted institutional change and development which encompassed the Imperial College of Tropical Agriculture (ICTA) in 1947, the Regional Research Centre (RRC) in 1955 and the Faculty of Agriculture, University College of the West Indies (UCWI) in 1960. The Mission appointed by the Conference of Heads of Government of the Caribbean Community under the leadership of Dr. Lewis Campbel to undertake an examination of regional agricultural research recommended the establishment of CARDI as an autonomous research institution separate from the University of the West Indies of which the RRC was part. Since its inception CARDI

has made a significant contribution to agricultural productivity in the Region in the areas of legumes, cereals and peanuts in St. Vincent, Antigua, Belize and Guyana. However, CARDI's most enduring achievement is in the area of plant pathology, virology, nematology, weed and soil services, systems agronomy, pasture agronomy and animal science. The Institute consists of a Governing Body, a Board of Directors and an Executive Director and support staff. The Standing Committee of Ministers responsible for Agriculture constitutes the Governing Body of the Institute. This curious arrangement is likely to cause some problems when the Revised Treaty of Chaguaramas enters into force and the Caribbean Community and Common Market is succeeded by the Caribbean Community including the CARICOM Single Market and Economy. The Standing Committee which existed under the old dispensation will be replaced by the four Ministerial organs. In this context it is assumed that the Ministers responsible for Agriculture will continue to meet as the Governing Body of CARDI. The legal implications of this have not been addressed. The Board of Directors consists of one member each nominated by Barbados, Guyana, Jamaica, Trinidad and Tobago and the Governments of Dominica, Grenada, St. Lucia and St. Vincent as a group and one by the Governments of Antigua, St. Kitts and Nevis, Belize and Montserrat and one each by the University of Guyana, the Caribbean Community Secretariat and the Caribbean Development Bank. The other members of the Board are the Chairman, appointed by the Standing Committee, the Executive Director of CARDI as an *ex officio* member and three members appointed by the University of the West Indies.

The Institute possesses full juridical personality and enjoys in each of the Member States such legal status and capacity as is necessary to fulfil its objectives and perform its functions. In particular, the Institute has the capacity to contract, acquire and dispose of moveable and immoveable property and institute legal proceedings. It is assumed that in any such proceedings the Institute will be represented by the Executive Director. The Institute may cooperate with international organisations having similar interests and enjoys in each Member State such privileges and immunities as are required for the fulfilment of its objectives and the performance of its functions.

At present the Institute has responsibility for winding up the Caribbean Food Corporation, the decision having been taken to terminate the activities of this institution.

AGREEMENT ESTABLISHING THE CARIBBEAN AGRICULTURAL RESEARCH AND DEVELOPMENT INSTITUTE

The contracting parties:

Sharing a common determination to promote social stability and a better quality of life for the peoples of the Region;

Recognising the merits of a regional organisation for agricultural research and development;

Aware that the solution to the problems of agriculture on a regional basis will complement the current efforts towards regional economic integration and particularly the efforts towards regional co-operation in agricultural development;

Conscious of the need for efficient and adequate national extension services;

Convinced that the establishment of a regional institution for agricultural research and development will facilitate the achievement of these needs;

Hereby agree as follows:

Article 1
Establishment

The Caribbean Agricultural Research and Development Institute (hereinafter referred to as "the Institute") is hereby established having the membership, powers and functions hereinafter specified.

Article 2
Membership

1. Membership of the Institute shall be open to -
   (a) States listed in the Annex to this Agreement;
   (b) Any other State of the Caribbean Region which becomes a Member or Associate Member of the Caribbean Community.

2. The States listed in the Annex to this Agreement, the Governments of which sign this Agreement in accordance with Article 18 and ratify it in accordance with Article 19 shall become Members of the Institute.

Article 3
Objects of the Institute

1. The objects of the Institute shall be -
   (a) to provide for the research and development needs of the agriculture of the Region as identified in national plans and policies;
   (b) to provide an appropriate research and development service to the agricultural sector of Member States;
   (c) to provide and extend the application of new technologies in production, processing, storage and distribution of agricultural products of Member States;
   (d) to pursue for specified periods long-term research in pertinent areas;
   (e) to provide for the co-ordination and integration of the research and development efforts of Member States where this is possible and desirable;
   (f) to undertake teaching functions normally at the postgraduate level, limited to the development of the relevant research by any Member State;
   (g) to seek to achieve the optimum decentralisation of facilities.

2. For the purposes of this Article the Institute may take such action as may be necessary or expedient for the attainment of its objects and the performance of its functions.

Article 4
Structure

The Institute shall have -

(a) a Governing Body;

(b) a Board of Directors with a Chairman and Deputy Chairman;

(c) an Executive Director; and

(d) such other officers and staff as may be necessary.

Article 5
Governing Body of the Institute

1. The Standing Committee of Ministers responsible for Agriculture (hereinafter referred to as "the Standing Committee") shall be the Governing body of the Institute.

2. Without prejudice to the generalities of paragraph 1 of this Article the Standing Committee shall have the power to -

(a) give general or specific policy directions to the Board of Directors;

(b) appoint an Executive Director after it has considered the recommendation of the Board of Directors and has consulted with the University of the West Indies;

(c) appoint the Chairman of the Board of Directors;

(d) authorise agreements to be entered into with third countries or other entities;

(e) approve the budget of the Institute to be prepared annually for the next following three financial years;

(f) approve the work programmes annually for the next following three financial years.

Article 6
Membership of the Board

1. The composition of the Board of Directors (hereinafter referred to as "the Board") shall be as follows -

(a) One member nominated by -

(i) the Government of Barbados;

(ii) the Government of Guyana;

(iii) the Government of Jamaica;

(iv) the Government of Trinidad and Tobago;

(v) the Governments of Dominica, Grenada, St. Lucia and St. Vincent;

(vi) the Governments of Antigua, St. Christopher, Nevis and Anguilla, Belize and Montserrat;

(vii) The University of Guyana;

(viii) The Caribbean Community Secretariat;

(ix) The Caribbean Development Bank;

(b) the Chairman;

(c) the Executive Director ex officio;

(d) three members appointed by the University of the West Indies.

2. Subject to the provisions of paragraph 2 of Article 8, the Chairman and the Executive Director together with the representatives of the Caribbean Community Secretariat and the Caribbean Development Bank shall sit as non-voting Members of the Board.

3. (a) Alternate Directors shall be appointed by the appropriate authorities in accordance with paragraph 1 above.

(b) Directors and Alternate Directors shall be persons of integrity and high competence with extensive experience in Agriculture or Agricultural research and development or administration or both and shall be selected with due regard to the principle of equitable geographical distribution.

4. Directors shall hold office for a term of three years and shall be eligible for re-appointment. They shall continue in office until their successors shall have been appointed and assumed office. If the office of a Director becomes vacant before the expiration of his term of office, the vacancy shall be filled by a new Director who shall be appointed in the same manner as his predecessor and he shall hold office for the remainder of the term of office of his predecessor.

Article 7
Functions and Powers of the Board of Directors

1. The Board of the Institute shall be responsible, subject to any directions of the Standing Committee, for the general operation of the Institute. It shall implement the general policies of the Institute and may give the Executive Director general instructions for the implementation of such policies.

2. Without prejudice to the functions specified in paragraph 1 of this Article, the Board shall-

(a) make recommendations to the Standing Committee in respect of the appointment of the Executive Director;

(b) receive and may approve the annual report of the Executive Director which shall include the financial report;

(c) make recommendations for the approval annually by the Standing Committee of the work programmes for the next following three financial years;

(d) make recommendations for the approval by the standing Committee of Estimates of Expenditure and the audited accounts of the Institute;

(e) assist the Executive Director in seeking the support and the resources necessary for the fulfilment of the objectives of the Institute;

(f) except as is otherwise provided exercise control over appointments including joint appointments and termination of appointments;

(g) cause to be kept appropriate books of account which shall be audited at least once a year by an auditor who shall be a qualified and independent accountant appointed by the Board and shall also cause to be prepared annual audited statements showing in detail the income and expenditure of the Institute and the assets and liabilities as they stood at the end of the immediate preceding financial year;

(h) carry out such other functions as the Standing Committee may delegate to it from time to time.

3. The Board may delegate to the Executive Director such of its functions as it thinks fit, provided that no such delegation shall preclude the Board from so acting at any time it thinks it, without prejudice however to anything done by the Executive Director under that delegation.

Article 8
Meetings of the Board

1. The Board shall meet at least twice a year or as often as the business of the Institute may require. A majority of Directors entitled to vote shall constitute a quorum for any Meetings of the Board.

2. Each Director entitled to vote shall have one vote and the Chairman shall have a casting vote only.

3. Subject to this Agreement, the Board shall regulate its own procedure.

Article 9
Chairman of the Board

1. The Chairman of the Board shall be appointed by the Standing Committee after considering the recommendation of the Board.

2. The Chairman of the Board while holding office shall not be a Director or Alternate Director of a Member State or any Body which is represented on the Board.

3. The term of office of the Chairman shall be for three years and he shall be eligible for re-appointment.

4. The Deputy Chairman shall be elected by the Board from among its members.

Article 10
The Executive Director

1. The duties of the Executive Director shall include -

(a) the day to day management and control of the Institute;

(b) the control of the expenditure of the funds of the Institute within the approved estimates;

(c) the performance of such functions of the Board as may be delegated to him;

(d) the organisation of special programmes and projects in furtherance of the objects of the Institute;

(e) ensuring that the correct procedures are followed with respect to all matters within the joint competence of the Institute and the University of the West Indies;

(f) representation, either personally, or by a nominee appointed by him, upon such Authorities, Boards or Committees of the University of the West Indies as may be agreed on with the University;

(g) the submission of an annual report to the Board;

(h) preparation annually for approval by the Board of work programmes for the next following three financial years;

(i) preparation annually for the approval by the Board of Directors, of estimates of expenditure for the next following financial year.

2. The Executive Director may become a Member of the Board of the Faculty of Agriculture, of the Academic Board, St. Augustine and of the Senate of the University.

3. In the absence or the incapacity of the Executive Director or while that office is vacant, the Board shall make suitable arrangements for the carrying out of the duties of the Executive Director and shall submit such arrangements for the approval of the Standing Committee.

Article 11
Staff of the Institute

1. The Institute shall appoint such members of its staff in accordance with the estimates by the Standing Committee as are necessary for the performance of its functions.

2. All staff appointments shall be made subject to the terms and conditions of service determined by the Board.

Article 12
Revenue

The revenue of the Institute shall be derived from -

(a) the annual contributions of Member States;

(b) such contributions as may be made by other States whether within or outside the Region;

(c) such grants as may be made from any source for the financing of special research, development or teaching projects or for fellowships;

(d) such fees as may be determined from time to time by the Board as fees payable to the Institute;

(e) payments made to the Institute in consideration of consultancy services provided through the Institute;

(f) income from any other sources.

Article 13
Location of the Institute

1. The Headquarters of the Institute shall be located in Trinidad and Tobago.

2. The Executive Director shall negotiate suitable arrangements with the University of the West Indies for the establishment of the Headquarters of the Institute at the St. Augustine Campus of the University of the West Indies.

3. The conclusion of such arrangements shall be subject to the approval of the Standing Committee.

4. The Institute may establish in any Member State such other research stations as may be deemed necessary by the Board.

Article 14
Relations with the University

The Institute shall seek such affiliation with the University as will promote the achievement of its objectives.

Article 15
Legal Status

1. The Institute shall possess full juridical personality.

2. The Institute shall enjoy in each Member State such legal status and legal capacity as may be necessary for the fulfilment of its objectives and the exercise of its functions. In particular the Institute shall have the capacity to -

(a) contract;

(b) acquire and dispose of moveable and immoveable property;

(c) institute legal proceedings.

3. The Institute shall enjoy in each Member State such privileges and immunities as may be necessary for the fulfilment of its objectives and the exercise of its functions.

4. The Institute may co-operate with international organisations active in similar fields and may seek all appropriate contacts with a view to cooperating with other Institutions in similar fields.

5. Upon the entry into force of this Agreement -

(a) all property of every kind whatsoever which was vested immediately before the entry into force of this Agreement, in the University of the West Indies or any other Institution on behalf of the Regional Research Centre shall be transferred to and be vested in the Institute for the purposes of this Agreement.

(b) all rights, privileges, advantages, liabilities and obligations that immediately before the entry into force of this Agreement were enjoyed by or imposed upon the University of the West Indies on behalf of the Regional Research Centre are hereby conferred upon or imposed upon the Institute for the purposes of this Agreement.

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Article 16
Disputes

1. If a dispute should arise between the Institute and a Member State or any of the Authorities represented on the Board, such dispute shall be submitted to arbitration by a Tribunal of three Arbitrators. Each party shall appoint one arbitrator and the two arbitrators shall appoint a third who shall be Chairman. If within 30 days of the request for arbitration either party has not appointed an arbitrator, or if within 15 days of the appointment of the second arbitrator, the third arbitrator has not been appointed either party may request the Secretary-General of the Caribbean Community to appoint an arbitrator.

2. The procedure of the arbitration shall be fixed by the arbitrators. However, the third arbitrator shall be empowered to supply all rules of procedure in any case of disagreement with respect thereto.

3. The majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding upon the parties.

Article 17
Implementation

Member States shall take all steps necessary for the implementation of this Agreement.

Article 18
Signature

This Agreement shall be deposited with the Secretariat of the Caribbean Community (hereinafter referred to as "the Depositary") and shall be open for signature until the entry into force of this Agreement, by any of the States listed in the Annex to this Agreement (hereinafter referred to as "the Annex").

Article 19
Ratification

This Agreement and any amendments thereto shall be subject to ratification by the signatories in accordance with their respective constitutional procedures. Instruments of Ratification shall be deposited with the Depositary which shall transmit certified copies to each Member State.

Article 20
Entry into Force

This Agreement shall enter into force by the deposit of the Instruments of Ratification in accordance with Article 19 by six of the States listed in the Annex including Barbados, Guyana, Jamaica and Trinidad and Tobago.

Article 21
Accession

1. Any State listed in the Annex which, upon the entry into force of this Agreement has not signed this Agreement in accordance with Article 18 and which wishes to become a Member after that date may accede to the Agreement by deposit of appropriate Instruments of Accession with the Depositary.

2. Any State other than States listed in the Annex which becomes a Member or Associate Member of the Caribbean Community may accede to the Agreement.

3. Admission to Membership under paragraph 2 of this Article shall be upon such terms and conditions as the Standing Committee may decide and shall take effect from the date on which the appropriate Instrument of Accession is deposited with the Depositary.

Article 22
Amendment

1. Any Member State may make proposals for amending this Agreement. Such proposals shall be submitted to the Standing Committee for its approval through the Depositary.

2. Any proposed amendment that is approved by the Standing Committee shall be submitted to each Member State for ratification.

3. Any such amendment shall enter into force upon the deposit of the Instruments of Ratification by all Member States.

Article 23
Withdrawal

1. Any Member State may withdraw from this Agreement by giving not less than 12 months notice in writing to the Depositary which shall forthwith notify other Member States.

2. A Member State withdrawing undertakes to honour any financial obligations duly assumed during its participation in this Agreement.

Article 24
Inaugural Meeting

As soon as this Agreement enters into force, each Member State together with the authorities represented on the Board shall appoint the Directors of the Board in accordance with Article 6 and the Secretary-General of the Caribbean Community shall call the Inaugural Meeting of the Board of Directors.

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ANNEX

LIST OF STATES

Antigua
Barbados
Belize
Dominica
Grenada
Guyana
Jamaica
Montserrat
St. Christopher-Nevis-Anguilla
St. Lucia
St. Vincent
Trinidad and Tobago

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have affixed their signatures to this Agreement.

Done at Georgetown, this 5th day of December, One thousand nine hundred and seventy four, in a single copy which shall be deposited with the Commonwealth Caribbean Regional Secretariat which shall transmit certified copies to all the Contracting States.

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THE CARIBBEAN FOOD CORPORATION

The first preambular paragraph of the Agreement establishing the Caribbean Food Corporation acknowledged the need for the rationalisation of agricultural production with a view to promoting complementarity in agricultural programming as contemplated in Article 49 of the Common Market Annex to the Treaty. Although the operations of the Caribbean Food Corporation are being terminated, the Agreement establishing the Corporation remains the only precedent for a regional food Corporation in the Caribbean.

Some of the objectives identified in the scheme for the rationalisation of agricultural production envisaged in Article 49 included: a regional plan for the integration of agricultural development in the Common Market; the achievement of optimum utilisation of agricultural resources; enhancing the efficiency of agricultural production, import substitution on a regional basis and enhanced employment opportunities and standards of living for peoples in the Common Market Area. The Caribbean Food Corporation's objectives were the production, processing, packing, storage, transportation, distribution and marketing of food which were incongruous with the stated objectives of Article 49 set out above.

In effect, the main focus of these stated objectives was directed to post-harvest technologies. Achievement of these objectives would go a far way in integrating the tourist industry backwards into the agricultural sector and effect significant foreign exchange savings through reduction in the Region's inordinately high food import bill. It is unfortunate and surprising that the Corporation had such a protracted gestation period.

Pursuant to its objectives the Corporation was empowered to make investments, manage, establish and operate enterprises; engage in the purchasing, processing, transportation, marketing and distribution of products; engage in financial operations and engage in any other activity related to its objectives. Membership of the Corporation was open to members of the Caribbean Community and Common Market, new members of either the Community or Common Market, Associate Members of the Common Market and countries having a special relationship with the Community or Common Market. In pursuance of the objectives of the Corporation, investments could be made in financially viable enterprises due regard being paid to the ability of the enterprise to increase agricultural production in the interest of regional self-sufficiency and to produce agricultural products capable of enhancing nutritional levels in the Region. In the performance of its functions the Corporation had a discretion to utilise the services of wholly-owned subsidiaries; to enter joint ventures with national governments and

statutory bodies, and utilise as appropriate the services of the Caribbean Investment Corporation, the Caribbean Development Bank, the Caribbean Agricultural Research and Development Institute and similar institutions within and outside the Region.

The authorised share capital of the Corporation was one hundred million dollars in the currency of Trinidad and Tobago divided into shares of one thousand each. The initial issue of shares was in an amount of ten million dollars at par and allotted in a prescribed manner. Liability of Member States was limited to the unpaid portion of their issue price. Shares could not be pledged or encumbered in any manner and were transferable only to another Member State. The capital resources of the Corporation consisted of ordinary capital resources and loan capital resources. The Corporation was empowered to borrow money which could be guaranteed by Member States jointly or severally.

The management of the Corporation was vested in the Board of Governors which, subject to specified exceptions, could delegate its powers to the Board of Directors. The Board was empowered to approve the investment programme of the Corporation, its annual budget and to give general directions to the Board of Directors. The Board consisted of Ministers of Agriculture of Member States to which shares were allotted. Other bodies of the Corporation were the Board of Directors and General Manager and such staff as were necessary for the efficient performance of its functions. The Board of Directors consisted of directors appointed by the Member States, together with the Secretary-General of the Caribbean Community or his nominee and the Managing Director. Subject to any general directions from the Board of Governors, the Board of Directors was responsible for the management of the affairs of the Corporation, the general policies of the Corporation and could give instructions to the Managing Director for the implementation of such policies.

The Corporation enjoyed in the jurisdiction of Member States such status, immunities, exemptions and privileges as were required to enable it to fulfil its purposes effectively. The Corporation possessed full juridical personality with full capacity to contract, acquire and dispose of moveable and immoveable property and to institute legal proceedings The Corporation was empowered to cooperate with national or international organisations and to seek all appropriate contacts with a view to cooperation with the institutions of the countries to which its operations extended.

AGREEMENT ESTABLISHING THE CARIBBEAN FOOD CORPORATION

The contracting parties, being governments of the Member States of the Caribbean Common Market:

Conscious of the need to adopt a scheme for the rationalisation of agricultural production within the Region with a view to promoting complementarity in national agricultural programmes as contemplated in Article 49 of the Annex to the Treaty Establishing the Caribbean Community;

Noting the alarming rate of increase in the importation of agricultural products into the Region caused to some extent by the inadequate methods and practices of farming on a large or small scale in the past;

Mindful of the need to increase agricultural production within the Region and to facilitate the transportation, distribution and marketing of the products thereof within and without the Region;

Considering that while any such scheme should be organised on a sound commercial basis full advantage should be taken of the potential of the scheme for assisting in the development of small farming enterprises and the development of the human resources of the Region;

Determined to remedy the situation by using advanced technology to implement a viable and efficient import replacement scheme in order to achieve self-sufficiency in food and to raise nutritional levels within the Region without displacing or competing with national efforts:

Have agreed as follows:

CHAPTER I - ESTABLISHMENT, OBJECTIVES, MEMBERSHIP AND POWERS OF CORPORATION

Article 1
Establishment

By this Agreement the Contracting Parties establish a Caribbean Food Corporation having the objectives, membership and powers hereinafter specified.

Article 2
Interpretation and Application

1. In this Agreement unless the context otherwise requires -
   (a) "agricultural production" includes the production of fish and meat;
   (b) "Common Market" means the Caribbean Common Market established by the Annex to the Treaty;
   (c) "Corporation" means the Caribbean Food Corporation established by Article 1;
   (d) "dollar" means a dollar in the territory of the principal office of the Corporation
   (e) "financial year" means the period January 1 to December 31, unless the Board of Directors otherwise determines;
   (f) "Less Developed Countries" or "LDCs" has the same meaning as in Article 3 of the Treaty;
   (g) "Member Country" means any Country which signs or accepts or accedes to this Agreement;

(h) "More Developed Countries" or "MDCs" has the same meaning as in Article 3 of the Treaty;

(i) "Region" means the States comprising the membership of the Common Market;

(j) "Secretary-General" means the Secretary-General of the Caribbean Community established by the Treaty;

(k) "Treaty" means the Treaty Establishing the Caribbean Community done at Chaguaramas on 4th July, 1973.

2. Any question of interpretation or application of the provisions of this Agreement not otherwise expressly provided for shall be submitted to the Board of Governors for decision by a simple majority of the total number of Governors.

Article 3
Objectives

The Corporation shall have as its objectives the production, processing, packing, storage, transportation, distribution and marketing of food, and without limiting the generality of the foregoing, the following _

(a) identifying, planning and implementing all stages of agricultural production schemes and any schemes relating thereto and, in pursuing the foregoing, to co-operate with national agencies;

(b) mobilising funds, technical and managerial skills from within and without the Region to promote, finance and implement agricultural production schemes;

(c) organising and facilitating the bulk purchase of agricultural inputs, as well as the marketing and other services associated with agricultural production schemes.

Article 4
Membership

1. Membership of the Corporation shall be open to -

(a) the Countries listed in the Annex to this Agreement;

(b) new Members of the Common Market or of the Community;

(c) Associate Members of the Common Market and other Countries having a special relationship with the Common Market or with the Community.

2. The Countries listed in the Annex to this Agreement, the Governments of which sign this Agreement, in accordance with paragraph 1 of Article 38 or accept the said Agreement in accordance with paragraph 3 of the said Article 38 shall become Members of the Corporation.

3. Countries admitted as new Members of the Common Market or of the Community may become Members of the Corporation in accordance with Article 40 of this Agreement.

4. Associate Members of the Common Market and other Countries having a special relationship with the Common Market or with the Community may become Members of the Corporation in accordance with Article 41 of this Agreement.

Article 5
Powers and Functions

In order to achieve its objectives, the Corporation shall have power -

(a) itself or through its subsidiaries to operate within the Common Market or, in furtherance of its objectives outside thereof, including in particular, power to -

(i) make investments;

(ii) establish, manage and operate enterprises;

(iii) engage in activities for the purchase, processing, transportation, marketing and distribution of products;

(iv) engage in financial operations;

(v) engage in any other activity related to its objectives;

(b) to act as agent for any government or any government authority;

(c) to sell, lease, or otherwise dispose of the undertaking, property, assets, rights and effects of the Corporation or any part thereof for such consideration, if any, as it thinks fit;

(d) to finance or assist in financing the sale of equipment, machinery, vehicles, commodities or any other tangible personal property by way of purchase and resale, leasing, hire purchase, deferred payment or any other similar transaction and to institute, enter into, carry on, finance or assist in financing the sale and maintenance of equipment, machinery, vehicles, commodities or any other tangible personal property upon any terms whatsoever, to acquire and discharge leases, hire purchase, deferred payment or other agreements or any rights thereunder whether proprietary or contractual;

(e) to establish branches, agencies, representative offices, affiliates and subsidiary companies in any Member Country and to regulate and discontinue the same;

(f) to amalgamate, enter into any partnership or any arrangement for sharing profits, union of interests, co-operation, joint venture, reciprocal or otherwise with any person, partnership or company where such amalgamation, partnership or arrangement may seem conducive to any of the Corporation's objectives;

(g) to form, promote, finance and assist companies, co-operatives and partnerships;

(h) to subscribe for, purchase or otherwise acquire and hold, sell, exchange, transfer, assign or otherwise dispose of and generally deal in the bonds, debentures, stocks, shares or other securities of any bank, corporation,

company, co-operative or association, and while such owner to exercise all the rights of ownership including the right to vote;

(i) to do all or any of the above things within or without the Region and either as principal, agent, trustee or otherwise and either alone or in conjunction with others and either by or through agents, trustees or otherwise;

(j) to do all such other things as may be considered to be incidental or conducive to the exercise of the above powers or any of them.

And it is hereby declared that the word "company" in this Article shall be deemed to include any body of persons whether corporate or unincorporate , and that the powers specified in the different paragraphs of this Article shall, except where otherwise expressed in such paragraphs, be in no wise limited by reference to any other paragraphs or the name of the Corporation, but may be out in as full and ample a manner and shall be construed in as wide a sense as if each of the said paragraphs defined the powers of a separate, distinct and independent company.

CHAPTER II - CAPITAL AND OTHER RESOURCES

Article 6
Authorised Capital

1. The authorised capital of the Corporation shall be one hundred million dollars. The authorised capital shall be divided into shares of one thousand dollars each, the initial issue of which shall be available for subscription only by Member Countries in accordance with the provision of Article 7 of this Agreement.

2. The authorised capital may be increased by the Board of Governors on the recommendation of the Board of Directors.

Article 7
Initial Issue of Shares

1. There shall be an initial issue (hereinafter referred to as "the initial issue") of share capital to the value of ten million dollars comprising of at least two portions. The first portion to the value of four million, four hundred and fifty thousand dollars shall be allotted and subscribed for in this Article and in Article 8 of this Agreement. The remainder of the initial issue shall be available for allotment and subscription in a manner and at a time as the Board of Directors may determine.

2. The first portion of the initial issue taken up by the MDCs, Belize and LDCs (other than Belize) shall be allotted as follows:

Barbados	-	$ 500,000
Guyana	-	1,250,000
Jamaica	-	1,250,000
Trinidad and Tobago	-	1,250,000
Belize	-	100,000
LDCs (other than Belize)	-	100,000

3. In respect of the shares allotted to the LDCs (other than Belize) the WISA Council of Ministers shall determine and notify in writing to the Secretary-General its undertaking to subscribe for the shares so allotted.

4. Share capital of the initial issue shall be issued at par unless the Board of Governors decide otherwise.

5. Liability of Member Countries on shares shall be limited to the unpaid portion of their issue price.

6. Except as provided in paragraph 5 a Member Country shall not be liable, by reason only of its membership, for obligations of the Corporation.

Article 8
Payment of Subscription

1. A Member Country which has taken up shares from the first portion of the initial issue shall make payment to the Corporation for such portion within three weeks after the time prescribed by the Board of Directors for such payment. The remainder of the initial issue shall be paid for in such amounts and within such time as the Board of Directors may determine provided that the amount required to be paid by a Member Country for its shares in the remainder of the initial issue shall bear the same proportion as that Member's share in the first portion bears to the total subscribed shares of the first portion.

2. Where any payment in respect of the initial issue of shares is sought to be made before the holding of the inaugural Meeting of the Board of Directors that payment shall be made to the Government of the place in which the principal office of the Corporation is located, and shall be held by that Government on behalf of the Corporation until such time as the Board of Directors requires that payment be handed over to the Corporation.

3. Any subsequent issue of share capital shall be issued at par value unless the Board of Governors decides otherwise and shall be paid for by Member Countries in such instalments as the Board of Governors after consultation with the Member Countries who are subscribers to that issue may determine.

Article 9
Transfer of Shares

Shares shall not be pledged or encumbered in any manner whatsoever and may be transferred only to another Member Country.

Article 10
Capital Resources

1. The resources of the Corporation shall consist of:
   (a) ordinary capital and resources; and
   (b) loan capital resources.

2. In this Article, the term -

(a) "ordinary capital resources" includes -

(i) issued share capital of the Corporation allotted pursuant to Article 7;

(ii) income derived from the aforementioned funds;

(iii) any other funds or income received by the Corporation;

(b) "loan capital resources" means funds borrowed by the Corporation for the purpose of meeting any of its obligations or discharging any of its functions.

CHAPTER III - OPERATING PRINCIPLES, INVESTMENT PROGRAMMES AND REPORTS

Article 11
Operating Principles

1. In pursuance of its objectives the Corporation shall invest in enterprises which are financially viable, due regard being paid to the following important criteria:

(a) the ability of the enterprise to increase agricultural production in order to achieve the greatest possible self-sufficiency within the Region; and

(b) the ability of the enterprise to produce agricultural products that will raise the nutritional levels within the Region.

2. In the performance of its functions the Corporation may -

(a) utilise the services of wholly owned subsidiaries;

(b) enter into joint enterprises with national governments, government agencies and statutory bodies;

(c) utilise where appropriate the services of the Caribbean Investment Corporation, the Caribbean Development Bank, the Caribbean Agricultural Research and Development Institute and similar institutions within or without the Region.

3. In making investments in private enterprises, regionally owned and controlled enterprises shall be preferred.

4. Before engaging in any enterprise in a Member Country the Corporation shall obtain the approval of the Member Country in which the enterprise is to be located.

Article 12
Investment Programmes

1. The Board of Directors shall submit for approval of the Board of Governors, investment programmes at such times and for such periods as the Board of Governors may determine. These investment programmes shall take into account the respective policies of Member Countries within the Region concerning agriculture and agro-based industries.

2. The investment programme shall take into account the priority areas of activity as determined by the Board of Governors under Article 18.

Article 13
Reports

1. The Board of Directors shall, within six months of the end of each financial year, call an annual general meeting. At the annual general meeting the Board of Governors shall consider the report of the Board of Directors including an audited statement of its accounts for the past financial year and shall also approve the budget of the Corporation for the next financial year.

2. The Board of Directors shall, with the approval of the Board of Governors, publish the annual report of the Corporation and may also publish such other reports as it deems desirable in the carrying out of the objectives of the Corporation. Such reports shall be transmitted to the Board of Governors.

3. The accounts of the Corporation shall be audited by auditors appointed by the Board of Governors.

CHAPTER IV - BORROWING

Article 14
Loans

The Corporation may in accordance with the terms of any general authority given by the Board of Governors at the annual general meeting or from time to time, borrow such sums as the Corporation may require for meeting its obligations or discharging its functions.

Article 15
Guarantee of Loans

Any Member Country or Group of Member Countries may agree jointly or severally to guarantee any borrowing of the Corporation authorised under Article 14 of this Agreement.

CHAPTER V - ORGANISATION AND MANAGEMENT

Article 16
Structure

The Corporation shall have a Board of Governors, a Board of Directors, a Managing Director and such other staff as may be considered necessary for the exercise of its functions.

Article 17
Board of Governors

Composition

1. The Board of Governors shall consist of the Minister responsible for Agriculture of each Member Country to which shares have been allotted or such other person as the Member Country may designate.

2. Where a Member Country fails to pay for shares within the time prescribed or determined by Article 8 that Member Country shall be deemed to be in arrears and shall forfeit its right to participate on the Board of Governors.

3. A Member Country whose right to participate on the Board of Governors was forfeited under paragraph 2 of this Article shall on satisfying all its outstanding obligations within the contemplation of that paragraph have that right restored.

4. At each annual meeting the Board of Governors shall elect one of the Governors as Chairman who shall hold office until the election of the next Chairman.

5. The Chairman shall preside at all Meetings of the Board of Governors but in the event of his absence or his inability to preside, the Governors present and constituting a quorum shall elect from among themselves a Governor to preside at that Meeting.

Article 18
Board of Governors

Powers

1. The Board of Governors is empowered to approve the investment programme and the annual budget of the Corporation and to give general policy directions to the Board of Directors.

2. The Board of Governors may delegate to the Board of Directors any of its powers, except the power to -

(a) admit new members and determine the terms and conditions of their admission;

(b) increase the authorised capital of the Corporation;

(c) decide on questions regarding the interpretation or application of this Agreement;

(d) determine the fees of the directors and their alternates;

(e) approve the investment programme and annual budget of the Corporation;

(f) delegate any of its powers.

3. The Board of Governors shall retain full power to exercise authority over any power delegated to the Board of Directors in accordance with paragraph 2 of this Article.

Article 19
Board of Governors

Voting and Procedure

1. The Board of Governors shall hold an annual general meeting. Special Meetings of the Board of Governors may be called either by the Board of Directors or on a requisition of not less than three Members of the Board of Governors.

2. Each Member of the Board of Governors shall have three hundred votes plus one additional vote for each share held by the Member Country he represents.

3. Except as otherwise expressly provided in this Agreement, all matters before the Board of Governors shall be determined by a majority of the voting power of the Member Countries represented at the meeting.

4. A majority of the total number of the Governors shall constitute a quorum for any meeting of the Board of Governors, provided such majority represents not less two-thirds of the total voting power of the Member Countries.

5. The Board of Governors may establish a procedure for obtaining a vote on a specified question without calling a meeting.

Article 20
Board of Directors

Composition

1. Upon the entry into force of this Agreement the Board of Directors shall consist of not more than nine Directors, as follows: -

(a) Directors appointed by or in respect of Member Countries in accordance with this Article;

(b) the Secretary-General or his nominee and the Managing Director.

The Directors referred to in sub-paragraph (b) shall have no vote.

2. Directors shall be appointed as follows: -

(a) each MDC upon becoming a Member of the Corporation shall be entitled to appoint one Director and one alternate Director;

(b) Belize upon becoming a Member of the Corporation shall be entitled to appoint one Director and one alternate Director;

(c) in respect of the LDCs (other than Belize) the WISA Council of Ministers shall be entitled to appoint two Directors and two alternate Directors, if but only if, one or more of the LDCs have taken up not less than one hundred shares in the initial issue of shares.

3. Subject to paragraph 4 an alternate Director shall in the absence of his principal attend any meeting and shall be entitled to vote on any matter.

4. For so long as a Member Country is deemed to be in arrears under Article 17 (2), the Director appointed by that Member Country or the DirectorS appointed by the WISA Council of Ministers (in any case where the Member Country in arrears is an LDC (other than Belize)) shall not participate in the business of the Board of Directors.

5. Each Member Country entitled to make appointment of directors and the WISA Council of Ministers shall inform the Secretary-General promptly after this Agreement enters into force of their appointments and such appointments shall become valid only upon notification to the Secretary-General.

6. Subsequent appointments to the Board of Directors shall be communicated to the Chairman of the Board of Directors as soon as possible before the expiration of the term of office of the Director to be replaced.

7. Each Director shall hold office for a term of three years but shall be eligible for re-appointment.

8. The Board of Directors shall elect a Chairman and a Vice-Chairman from among the Directors, and the Vice-Chairman shall preside in the absence of the Chairman. In the absence of the Chairman and Vice-Chairman at any meeting the Directors may elect one of their number to act as Chairman of the meeting of the Board of Directors. Both the Chairman and the Vice-Chairman shall hold office for three years. Both shall be eligible for re-election. The Secretary-General or his nominee and the Managing Director are not eligible for election as Chairman or Vice-Chairman.

9. Directors shall be persons of high competence with experience in commercial, agricultural or financial matters.

10. Directors shall be paid such fees and reasonable allowances for attending meetings as may be approved by the Board of Governors.

11. A Member Country or the WISA Council of Ministers may at any time revoke its appointment of a Director and appoint another person in his stead. The Member Country or the WISA Council of Ministers, as the case may be, shall promptly notify the Chairman of the Board of Directors of such revocation and of the new appointment. A Director appointed under this paragraph shall hold office only for the remainder of the term of his predecessor.

12. Notwithstanding paragraphs 1 and 2 of this Article the Board of Governors may decide from time to time to alter the composition of the Board of Directors by a vote of not less two-thirds of the Members representing not less than three-fourths of their total voting power. Nothing in this paragraph shall impair the right of any Member Country or the WISA Council of Ministers to appoint Directors as provided for in paragraph 2 of this Article.

Article 21
Board of Directors

Powers

The Board of Directors shall be responsible, subject to any direction by the Board of Governors, for the management of the affairs of the Corporation. It shall also be responsible for the general policies of the Corporation and may give the Managing Director general and special instructions for the implementation of such policies.

Article 22
Board of Directors

Voting and Procedure

1. The business of the Board of Directors shall be transacted at the principal office of the Corporation or at such places as may from time to time be determined by the Board.

2. The Board of Directors shall meet at least every six months or as often as the business of the Corporation requires.

3. Meetings shall be called by the Chairman of the Board on at least one month's notice unless special circumstances require a shorter period of notice.

4. A quorum of the Board of Directors shall be a simple majority of the Directors eligible to vote.

5. In voting at meetings of the Board of Directors, each Director (including the Chairman or the Vice-Chairman when presiding) shall be entitled to one vote. All matters shall be decided by a majority of the number of Directors present and voting. In the event of a deadlock the Chairman shall have a casting vote.

6. Subject to the preceding paragraphs of this Article, the Board shall settle its own Rules of Procedure.

Article 23
The Managing Director

1. The Board of Governors shall appoint a Managing Director of the Corporation upon such terms and conditions as the Board sees fit.

2. The Managing Director shall be the Chief Executive Officer of the Corporation and shall conduct, under the direction of the Board of Directors, the business of the Corporation. He shall, subject to the general control of the Board of Directors, be responsible for the organisation, appointment and dismissal of the staff.

3. The Board of Directors shall approve rules governing the appointment and conduct of the staff and the operationS of the Corporation.

Article 24
Office and Seal of the Corporation

1. The principal office of the Corporation shall be located in Trinidad and Tobago.

2. The Corporation shall have an official seal approved by the Board of Governors.

3. The Directors shall provide for the safe custody of the seal which shall only be used by the authority of the Directors and any instrument to which the seal is affixed shall be signed by a Director and countersigned by some other duly authorised person.

4. The Corporation may establish agencies or branch offices elsewhere.

CHAPTER VI - ALLOCATION OF NET INCOME

Article 25
Allocation of Net Income

1. The Board of Governors shall, on the recommendation of the Board of Directors, determine at least annually the disposition of the net income of the Corporation arising from its ordinary operations and what portion thereof, if any, shall be allocated after making provision for reserves or other purposes, to surplus, and what portion, if any, shall be reinvested in, or distributed among members of, the Corporation.

2. Any distribution of net income under paragraph 1 of this Article shall be made to each Member Country in proportion to the paid up value of shares held by that Member Country.

3. Payments of the net income under paragraph 1 of this Article shall be made in such manner as the Board of Governors may determine and in the respective currencies of Member Countries.

CHAPTER VII - TERMINATION OF MEMBERSHIP

Article 26
Termination of Membership

Any Member Country which disposes of all its shares in the Corporation shall cease to be a party to this Agreement, and its membership in the Corporation shall terminate on the date of the transfer of shares.

Article 27
Settlement of Accounts

1. After the date on which a Member Country ceases to be a Member of the Corporation, that former Member shall remain liable for its direct financial obligations to the Corporation that were incurred before that date and for any other liability so incurred in respect of any loans or guarantees made to or given in respect of the Corporation but it shall not incur liabilities with respect to loans and guarantees entered into thereafter by the Corporation or share either in the income or the expenses of the Corporation.

2. Upon a Member Country ceasing to be a Member of the Corporation, the Corporation shall arrange for the transfer of that country's shares as a part of the settlement of accounts with such country in accordance with the provisions of this Article. Such shares shall be disposed of in such manner as the Board of Governors may determine.

3. Where within six months of a Member Country ceasing to be a member of the Corporation, the operations of the Corporation are terminated pursuant to Article 28, all rights of that Member Country shall be determined in accordance with Articles 28 and 29. That Member Country shall be considered as still being a Member of the Corporation for the purposes of those Articles but shall have no voting rights.

Article 28
Termination of Operations

1. The Board of Governors may by a resolution adopted by a vote of not less that two-thirds of the total number of Governors representing not less than three-fourths of the total voting power of the Members terminate the operations of the Corporation.

2. After such termination, the Corporation shall forthwith cease all activities, except those incident to the orderly realisation, conservation and preservation of its assets and settlement of its obligations.

Article 29
Distribution of Assets

1. Upon dissolution of the Corporation no distribution of assets shall be made to Member Countries on account of their subscription to the capital of the Corporation until all liabilities to creditors are discharged or provided for. However, such distribution must be approved by a vote o not less that two-thirds of the total number of Governors representing not less than three-fourths of the total voting power of the Members.

2. Any distribution of the assets of the Corporation to the Member Countries shall be in proportion to the paid up value of the shares held by each Member Country and shall be effected at such times and under such conditions as the Board of Governors shall deem fair and equitable. No Member Country shall be entitled to receive its share in such a distribution of assets until it has settled all its obligations to the Corporation.

3. Before any distribution of assets is made, the Board of Governors shall value the assets to be distributed as at the date of distribution.

CHAPTER VIII - STATUS, IMMUNITIES, EXEMPTIONS AND PRIVILEGES

Article 30
Purpose of Chapter

In order to enable the Corporation to effectively fulfill its purposes and carry out the functions entrusted to it, the status, immunities, exemptions and privileges set forth in this Chapter shall be accorded tot he Corporation in the territory of each Member Country.

Article 31
Legal Status

1. The Corporation shall possess full juridical personality and, in particular, full capacity -

(a) to contract;

(b) to acquire and dispose of immoveable and moveable property; and

(c) to institute legal proceedings.

2. The Corporation may co-operate with national or international organisations or entities and may seek all appropriate contacts with a view to co-operation with such institutions of the countries to which its operations extend.

Article 32
Freedom of Assets from Restrictions

To the extent necessary to carry out their purposes and functions effectively and subject to the provisions of this Agreement, the Corporation, its wholly-owned subsidiaries and joint enterprises with Governments of Member Countries -

(a) may hold assets of any kind and operate accounts in any currency; and

(b) shall be free to transfer their assets from one Member Country to another or within any Member Country and to convert any currency held by them into any other currency of the Region,

without being restricted by financial controls or moratoria of any kind provided that the transactions involved are carried on within the Region.

Article 33
Immunities and Privileges of the Corporation

Personnel

All Members of the Board of Governors, Directors, alternates, senior employees of, and experts performing missions in connection with, the Corporation, its subsidiaries or joint enterprises with Governments of Member Countries, where they are not local citizens or nationals, shall be accorded work permits and such immunities from immigration restrictions, alien registration requirements and national service obligations, to the extent necessary for the efficient functioning of the Corporation.

Article 34
Taxation

1. The Corporation, its assets, property, income and its operations shall be exempt from all direct taxation.

2. Notwithstanding the provisions of paragraph 1 of this Article, the Corporation shall not claim exemption from taxes which are no more than charges for public utility services.

3. The preceding paragraphs of this Article shall apply to wholly owned subsidiaries of the Corporation and joint enterprises between the Corporation and Governments of Member Countries.

Article 35
Credits, Fiscal Incentives and Quantitative Restrictions

Each Member Country undertakes -

(a) to grant to the Corporation long, medium and short term credits on no less favourable terms than those given to similar investors in the particular Member Country;

(b) to accord to the Corporation no less favourable treatment than that accorded any enterprise operating in the Member Country;

(c) to apply quantitative restrictions in such favourable manner where appropriate,

to enable the Corporation, its subsidiaries and affiliates more readily to attain the objectives of this Agreement.

CHAPTER IX - ARBITRATION

Article 36
Arbitration

1. If a dispute should arise between the Corporation and a Country which ceases to be a member, or between the Corporation and any Member Country after the adoption of a resolution to terminate the operations of the Corporation, such dispute shall be submitted to arbitration by a tribunal of three arbitrators. Each party shall appoint one arbitrator and the two arbitrators so appointed shall appoint the third who shall be Chairman. If within thirty days of the request for arbitration either Party has not appointed an arbitrator or if within fifteen days after the appointment of two arbitrators the third arbitrator has not been appointed, either Party may request the Secretary-General to appoint an arbitrator. The procedure of the arbitration shall be fixed by the arbitrators. However, the third arbitrator shall be empowered to settle all questions of procedure in any case of disagreement with respect thereto.

2. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding upon the parties.

CHAPTER X - FINAL PROVISIONS

Article 37
Implementation

Each Member Country shall take the necessary action to make effective the provisions of this Agreement and enact such legislation as may be necessary to discharge its obligation under it.

Article 38
Signature

1. This Agreement shall be lodged with the Secretary-General (in this Agreement referred to as the Depositary) and shall remain open until the 15 day of September, 1976 for signature by the Countries listed in the Annex to this Agreement.

2. The Depositary shall transmit certified copies of this Agreement to all the signatories and other Countries which become members of the Corporation.

3. Any Country listed in the Annex to this Agreement which has not signed the Agreement may accept the Agreement by depositing an Instrument of Acceptance with the Depositary.

Article 39
Entry into Force

1. This Agreement shall enter into force when it has been signed or accepted in accordance with Article 38 of this Agreement by any four of the Countries including two of the More Developed Countries listed in the Annex to this Agreement.

2. The Depositary shall notify the Countries listed in the Annex to this Agreement of the date of entry into force of this Agreement, and of all the Countries which have signed or accepted this Agreement and shall transmit certified copies thereof to all Members.

Article 40
Accession

After the entry into force of this Agreement, a Country other than one listed in the Annex may in the discretion of the Board of Governors be permitted to become a member of the Corporation by accession to this Agreement on such terms as the Board of Governors shall by a two-thirds majority vote of the total number of Governors determine. Any such Country shall deposit, on or before a date appointed by the Board of Governors an Instrument of Accession with the Depositary who shall notify such and the date thereof to the Corporation and the parties to this Agreement. Upon such deposit, and upon the subscription and payment for shares issued to it, the Country shall become a member of the Corporation on the appointed date.

Article 41
Admission of Associate Members, Etc.

The Board of Governors may in its discretion and upon such terms and conditions, as it deems fit, admit to membership of the Corporation any Country to which paragraph 4 of Article 4 applies.

Article 42
Inaugural Meeting

1. As soon as possible after this Agreement enters into force, the Secretary-General shall convene the inaugural meeting of the Board of Directors.

2. Within thirty days of the holding of the inaugural meeting in accordance with paragraph 1 of this Article, the Secretary-General shall call a special meeting of the Board of Governors, if he or the Board of Directors or the Board of Governors thinks it necessary.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorised thereto by their respective Government, have affixed their signature to this Agreement.

Done at Georgetown this 18th Day of August, one thousand, nine hundred had seventy six in a single copy which shall be deposited with the Caribbean Community Secretariat which shall transfer copies to all the Contracting States.

ANNEX

MEMBERSHIP

Membership of the Corporation shall be open to:

(i) Antigua
(ii) Barbados
(iii) Belize
(iv) Dominica
(v) Grenada
(vi) Guyana
(vii) Jamaica
(viii) Montserrat
(ix) St. Kitts/Nevis/Anguilla
(x) St. Lucia
(xi) St. Vincent
(xii) Trinidad and Tobago

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THE ESTABLISHMENT OF A REGIME FOR CARICOM ENTERPRISES

The Agreement for the Establishment of a Regime for CARICOM Enterprises speaks volumes about the inadequacies of the original Treaty of Chaguaramas in terms of attracting investment from third States and among the Member States of CARICOM. Article 35 of the 1973 Treaty did not accord a right of establishment by Member Countries of the Community to nationals of other Member Countries. Member States simply recognised that in allowing the establishment of economic enterprises by nationals of other Member States, national treatment should be accorded to the latter if to withhold such treatment benefits expected from the removal or absence of duties and qualitative restrictions required by the Treaty could be frustrated. Similarly, the right to provide services set out in Article 36 was no more than MFN treatment in respect of services provided by nationals of Member States. Finally, Article 37 did not accord to nationals of Member States the right to move capital, an essential requirement of intra-Community investment in join ventures and other forms of capital investment.

On the basis of the foregoing, private investors were reluctant to commit to enterprises in the Community and Common Market. Consequently, there was a conspicuous dearth of foreign direct investment in the period following the establishment of the Community in 1973, which coincided with the quintupling of oil prices at that time, by the petroleum exporting countries. Those were the heady days of the New International Economic Order evidenced in the relevant resolutions of the United Nations General Assembly. The reluctance of foreign direct investment to commit to developing countries was aggravated by the currency of sovereignty over natural resources, construed as legitimising the nationalisation of foreign investments in the natural resources sector. In the Community, these fears found justification by reason of moves in Guyana to nationalise the bauxite industry and in Jamaica to impose the bauxite levy in 1974. Against this background, moves toward the establishment of a CARICOM Enterprise Regime were initiated.

Consistently with the provisions of Article 44 (of the 1973 Treaty?) a CARICOM Enterprise would be regionally owned and controlled within the meaning of Article 1 and engaged in the production of goods of Common Market origin or in the provision of services in the areas of tourism and the marketing of agricultural commodities. To qualify for the designation of CARICOM Enterprise, an enterprise must be approved by the competent authority and must be incorporated, registered, managed and dissolved in accordance with the provisions of the Agreement.

Management of the Regime is undertaken by the Authority comprising one representative from each Member State, one representative of the body or institution representing the private sector and one official each from the Caribbean Community Secretariat and the Caribbean Development Bank. The Authority is responsible for considering and approving applications for CARICOM Enterprise status and for ensuring that approved enterprises conduct themselves in accordance with the prescribed rules and do nothing to compromise their status as CARICOM Enterprises. The Authority may submit periodic reports to Member States in order to ensure that CARICOM Enterprises comply with the provisions of the Agreement. Member States are also under an obligation to ensure that CARICOM Enterprises conduct business within parameters established by the Agreement, that they are managed and controlled by Member States' nationals and that such enterprises do not persistently violate the provisions of the Agreement.

Businesses enjoying the status of a CARICOM Enterprise have full juridical personality in every Member State of its registration as if it were a company incorporated under the laws of such a State. Member States undertook to accord national treatment to CARICOM Enterprises in terms of government procurement, access to credit, enjoyment of incentives and protection from third State enterprises. Member States also agreed to exempt such enterprises from taxes on profits, dividends and similar distributions.

AGREEMENT FOR THE ESTABLISHMENT OF A REGIME FOR CARICOM ENTERPRISES

The governments of the Member States of the Caribbean Common Market:

Having regard to the provisions of the Common Market Annex of the Treaty Establishing the Caribbean Community and, in particular, to -

(a) Article 3 on the "Objectives of the Common Market";

(b) Article 35 on "Establishment" and Article 37 on "Movement of Capital";

(c) Article 42 on the "Harmonisation of Laws", with respect to Company Law;

(d) Article 44 on "Ownership and Control of Regional Resources";

(e) Article 45 on the "Coordination of National Development Planning"; Article 46 on "Common Market Industrial Programming"; Article 47 on "Joint Development of Natural Resources"; and Article 49 on "Rationalisation of Agricultural Production"; and

(f) Article 59 on "Financial Assistance from the More Developed Countries" to Less Developed Countries;

Cognisant of the urgent need to develop economic activities in the Common Market on the basis of joint enterprises between national investors (as hereinafter defined in Article 1);

Conscious of the continuing need to develop and give further scope for national and regional entrepreneurship, management and technological capacity in the production of goods and services on a regional basis for both the regional and extraregional markets;

Mindful of the need to pool human, financial and natural resources of the Region for the implementation of high priority regional projects designed to benefit the people of the Region;

Emphasising the need for the creation of machinery whereby the movement of investment capital between Member States, particularly from the More Developed Countries to the Less Developed Countries may be expeditiously effected in the interests of the development of the Region;

Aware of the crucial role which the private sector, on its own or in partnership with the Region's public sector or suitable foreign investors, can play in the economic development of the Region;

Agree to the establishment of the following regime:

Article 1
Definitions

1. In this Agreement:

"Authority" means the Body established by Article 8 of this Agreement.

"CARICOM Enterprise" means, subject to this Agreement, a regionally-owned and controlled company which -

(a) within such areas specified in Article 46, 47 and 49 of the Treaty as the Council may from time to time prescribe, engages in the production of Common Market Origin goods; or

(b) provides services -

(i) in areas specified in Articles 48 and 50 of the Treaty; or

(ii) in those sectors of the regional economy specified in the Annex to this Agreement and in such other sectors of the regional economy as the Council may, from time to time, determine;

"Common Market Origin" has the same meaning as that referred to in paragraphs 1, 2 and 3 of Article 14 of the Annex to the Treaty.

"company" means a company incorporated under the general statutes of any Member State relating to the formation of such a legal company.

"Council" means the Caribbean Common Market Council of Ministers established by the Treaty.

"Less Developed Country" means Antigua and Barbuda, Belize, Dominica, Grenada, Montserrat, Saint Christopher and Nevis, Saint Lucia or Saint Vincent and the Grenadines.

"Member State" means a Member State which is a Member of the Caribbean Common Market established by the Annex to the Treaty and a Party to this Agreement.

"More Developed Country" means Barbados, Guyana, Jamaica or Trinidad and Tobago.

"national" subject to paragraph 2 of this Article, has the same meaning as that set out in paragraph 6 (a) of Article 35 of the Annex to the Treaty and includes companies controlled by such persons or by companies so controlled as specified in the definition of "regionally-owned and controlled:.

"National Investor" means, subject to paragraph 2 of this Article, a Member State or a national of a Member State holding equity share capital of a Company.

"regionally-owned and controlled" in relation to a company means that the company is one in which in the opinion of the Authority nationals of at least two Member States exercise management and control by beneficially owning shares carrying between them directly or indirectly -

(a) the right to exercise more than one-half of the voting power in that company; and

(b) the right to receive more than one-half of any dividends that might be paid by that company; and

(c) the right to receive more than one-half of any capital distribution in the event of the winding-up or of a reduction in share capital of that company;

or such greater proportion than is specified in paragraph (a) to (c) above as the Council may, from time to time, determine in relation to any sector of the regional economy.

"Registrar" in relation to a Member State, means the officer responsible for the registration of companies.

"Treaty" means the Treaty Establishing the Caribbean Community and Common Market done at Chaguaramas on the 4th July, 1973.

2. (1) The Caribbean Development Bank and the Caribbean Food Corporation and other similar bodies that hold equity share capital in a company shall, for the purposes of this Agreement, be deemed to be National Investors as well as nationals of the Member State which is to be the Headquarters State.

(2) Nothing in this Agreement shall be construed as derogating from any rights, privileges and immunities conferred on or accorded the Caribbean Development Bank and the Caribbean Food Corporation by virtue of the respective Agreements establishing them.

3. Nothing in this Agreement and, in particular, the definition of CARICOM Enterprise shall entitle an Enterprise to be registered as a CARICOM Enterprise unless it is approved as such by the Authority in accordance with this Agreement.

Article 2
Establishment of a Regime

Member States undertake to establish a Regime for the incorporation and registration, operation, management, winding-up and dissolution of a form of business

Enterprise to be known as a CARICOM Enterprise, for the legal organisation, purposes and scope of operation as is hereinafter specified.

Article 3
Purposes and Functions of a CARICOM Enterprise

A CARICOM Enterprise may be established for such purposes within the areas specified in Articles 46-50 of the Annex to the Treaty and such other sectors of the regional economy as are specified in the Annex to this Agreement and shall perform such functions as are by its Memorandum of Association and the provisions of this agreement specified; the Council shall keep the Annex under review and may impose any conditions under which CARICOM EnterpriseS may operate.

Article 4
Formal Organisation of a CARICOM Enterprise

1. The formal organisation of a CARICOM Enterprise shall be that of a company which has been established in accordance with this Regime.

2. The name of the Member State in which the central management and control of the CARICOM Enterprise will be situated (hereinafter called "the Headquarters State") shall be stated in the Memorandum of Association.

3. The shares shall be registered in the name of the holder.

4. A CARICOM Enterprise shall be incorporated and registered in the Headquarters State.

Article 5
Law of Incorporation, Registration, Operation,
Management, Winding-Up and Dissolution of a CARICOM Enterprise

The incorporation, registration operation, management, winding-up and dissolution of a CARICOM Enterprise shall be governed by the provisions of this Agreement as well as the company law and other relevant laws of the Headquarters State and those other Member States in which the CARICOM Enterprise is registered.

Article 6
Formation of a CARICOM Enterprise

1. The status of a CARICOM Enterprise may be conferred on a company formed for the purpose and in the manner provided by this Article. However, a Company not so formed for the purpose may acquire the status of a CARICOM Enterprise if it is qualified therefor and its objects are confined to those of such an Enterprise.

2. The Memorandum of Association, Articles of Association and other constituent documents that are required for the incorporation of a Company (hereinafter referred to as "the constituent documents"), together with programmes of activities of a proposed CARICOM Enterprise for the first five years of its operation, shall be submitted to the Authority for its approval in writing and any material alteration of any such programme shall be submitted to the Authority forthwith for its approval.

3. In the case of a Company not formed for the purpose of becoming a CARICOM Enterprise that desires to obtain such status, the programme of activities together with certified copies of its registration certificate and its constituent documents must similarly be submitted to the Authority for its approval in writing.

4. The written approval for the registration of the Company as a CARICOM Enterprise, upon its incorporation or otherwise, shall be attached to duly authenticated copies of the constituent documents and submitted to the Registrars of the headquarters State and such other Member States as voted under paragraph 4(a) of Article 8 of this Agreement for conferment of the status of a CARICOM Enterprise on the Company, for incorporation, if necessary, of the Company in the Headquarters State and its registration as a CARICOM Enterprise in the Headquarters State and those other Member States.

5. The Registrars of the Headquarters State and those other States referred to in paragraph 4 of this Article upon receipt of the constituent documents together with the written approval of the Authority shall register the Company as a CARICOM Enterprise in the Headquarters State and in those other Member States, respectively.

6. Any proposed alteration of the objects of a registered CARICOM Enterprise shall similarly be submitted to the Authority for its approval and dealt with in the manner provided by paragraphs 4 and 5 of this Article.

7. Within fourteen days of the registration of the CARICOM Enterprise in the Headquarters State, the Registrar of the Headquarters State shall notify the Registrars of each member State, other than those referred to in paragraph 4 of this Article, of the registration of the CARICOM Enterprise.

8. The Registrar of each Member State, other than those referred to in paragraph 4 of this Article, may without payment of any fee enter the name of the CARICOM Enterprise in a special record kept for the purpose.

9. Where a Company is registered as a CARICOM Enterprise by any Member State under this Agreement, it shall pay such fees, levies and other dues, if any, as are prescribed by the laws of the Member State concerned.

Article 7
Effect of Registration

1. Registration of a Company as a CARICOM Enterprise under paragraphs 4 to 6 of Article 6 of this Agreement shall confer the status of a CARICOM Enterprise on such Company and entitle the CARICOM Enterprise to the benefits provided for by this Agreement.

2. Where pursuant to paragraph 8 of Article 6 of this Agreement the name of a CARICOM Enterprise is entered in the special record of a Member State, such Enterprise may at any time thereafter apply to be registered as a CARICOM Enterprise in that Member State, and on such application the Registrar of such Member State may on the receipt of the constituent documents and payment of any prescribed fee, register such CARICOM Enterprise accordingly, whereupon the provisions of paragraph 1 of this Article shall apply.

Article 8
Establishment, Voting, Meeting and
Procedure of the CARICOM Enterprise Authority

1. For the purposes of this Agreement, there shall be a CARICOM Enterprise Authority which shall comprise one representative of each Member State, one official of the Caribbean Community Secretariat, one official of the Caribbean Development Bank and one representative of the body or institution representing the private sector designated as a member of the Joint Consultative Group of the Common Market Council of Ministers.

2. Each Member of the Authority, other than the official of the Caribbean Community Secretariat, the official of the Caribbean Development Bank, and the representative of the private sector referred to in paragraph 1, shall have one vote.

3. Except as otherwise provided for in this Agreement, a decision of the Authority shall be by a simple majority vote of the Members of the Authority present and voting.

4. (a) In considering an application for the approval of the establishment of a CARICOM Enterprise, only the representative of the Headquarters State, the representatives of Member States in which the CARICOM Enterprise is to be registered and the representatives of those member States, the nationals of which are members of the Enterprise, shall vote. A decision of the Authority on any such application shall be by unanimous vote.

(b) In exercising any of the powers set out in Article 10 (d) (ii) of this Agreement, the affirmative vote of least two-thirds of the representatives entitled to vote under sub-paragraph (a) of this paragraph shall be necessary.

5. The Authority shall meet in any Member State it considers convenient from time to time and as often as it is necessary for the conduct of its business and, without prejudice to the foregoing, at least on two occasions in each calendar year.

6. The quorum for meetings to decide all matters shall be one-third of the Members of the Authority.

7. The Members of the Authority shall elect a Chairman from among their number.

8. The Authority may establish sub-committees and may co-opt any expert for the use of such of his services as it may require for the purpose of performing its functions under this Agreement.

Article 9
Management of a CARICOM Enterprise

A CARICOM Enterprise shall normally be managed in its day-to-day operations by nationals of the Member States of the Caribbean Common Market but where it is not possible to secure the services of such nationals, the CARICOM Enterprise may secure the services of other nationals provided the Authority is notified and approves of their engagement.

Article 10
Functions and Powers of the Authority

1. The Authority:
   (a) shall receive -
      (i) applications accompanied by other constituent documents for approval as are set out in Article 6, paragraph 2, of this Agreement;
      (ii) such information as may, from time to time, be sent to it from any Member State for the purpose of ensuring that a CARICOM Enterprise is owned and controlled by nationals or for deciding whether a CARICOM Enterprise is in gross or persistent violation of the provisions of this Agreement;
      (iii) such information as shall be submitted to it, at its request, by a CARICOM Enterprise for the purpose of determining whether the operations of that CARICOM Enterprise are within the purposes and scope of the Regime;
      (iv) such other information as may be submitted to it by any Member State or CARICOM Enterprise and which may be of use to it for the effective performance of its functions and exercise of its powers;
   (b) shall grant or refuse applications for approval to proceed to registration of a CARICOM Enterprise as set out in Article 8 of this Agreement;
   (c) may require from a CARICOM Enterprise, immediately upon its registration, that it shall provide the Authority with information on such matters as its current shareholdings, loan agreements, management contracts, consultancy contracts, and assets, if any, held outside the Caribbean Community. Such a request may stipulate a period or regular periods within which the information shall be supplied;
   (d) may determine -
      (i) whether the operations of a CARICOM Enterprise are within the purpose and scope of this Agreement and may make reports to any Member State or the CARICOM Enterprise affected and recommendations based thereon;
      (ii) whether a CARICOM Enterprise has been carrying on business in gross or persistent violation of this Agreement and shall state its findings and at the same time make a report on them to the Headquarters State and the CARICOM Enterprise affected; Provided that the Authority shall afford the CARICOM Enterprise an opportunity to make representations before making a determination under this provision of this sub-paragraph;
   (e) shall take all necessary steps to ensure that a CARICOM Enterprise is, as far as possible, managed by nationals of the Member States of the Caribbean Common Market only, except to such extent as the Authority has allowed.

2. Notwithstanding anything in this Article, the Authority may make such other reports and recommendations to Member States and submit copies thereof to the CARICOM Enterprises concerned as it considers necessary for the purpose of ensuring that CARICOM Enterprises comply with the provisions of this Agreement.

Article 11
Supervision of the CARICOM Enterprise

1. The supervision of a CARICOM Enterprise shall be undertaken by the Authority and the Registrars of Member States (performing their statutory functions) or such other body or person as each Member State may designate for the purpose.

2. Member States undertake to assist the Authority by taking such action as may be necessary to ensure -

(a) that CARICOM Enterprises carry on their business within the purposes and scope of the Regime;

(b) that, subject to Article 9, all CARICOM Enterprises are managed and controlled by nationals of Member States;

(c) that CARICOM Enterprises are not in gross or persistent violation of the provisions of the Regime.

3. The Headquarters State shall, upon a finding by the Authority that a CARICOM Enterprise has been carrying on its business in gross or persistent violation of this Agreement, strike off the name of the CARICOM Enterprise from its register of CARICOM Enterprises. Such a CARICOM Enterprise shall immediately cease to enjoy all the benefits provided for in Article 12 of this Agreement.

4. The Registrar of the Headquarters State shall forthwith inform all Member States in which the CARICOM Enterprise is registered that its name has been so struck off the register and every such Member State shall thereupon remove the name from its register or its special record, as the case may be.

5. A CARICOM Enterprise which has been struck off from the CARICOM Enterprise register may operate as a company under the national laws of the Headquarters State. Its name may be restored not earlier than twelve months after its name has been struck off the register of CARICOM Enterprises if it successfully applies to the Authority for reinstatement.

Article 12
Benefits to be Enjoyed by CARICOM Enterprises

1. A CARICOM Enterprise shall have full legal personality in every Member State in which it is registered as such, as if it were a company incorporated and registered under the general statutes relating to the incorporation, registration and management of companies.

2. In the exercise of its legal personality in any Member State in which it is registered, a CARICOM Enterprise shall not be regarded as having a separate personality from that which it enjoys in another Member State in which it is also registered, and accordingly Member States will provide -

(a) that the public documents of a CARICOM Enterprise must reflect the indivisibility of the legal personality of the Enterprise and any rights and obligations acquired by or imposed on the Enterprise; and

(b) that the appropriate courts of any Member State in which the CARICOM Enterprise is registered shall have full and concurrent jurisdiction over the affairs and all the assets of the Enterprise wherever situated in those Member States; and

(c) that the judgements and orders of any such courts will be enforced in accordance with a common procedure.

3. Each Member State shall in accordance with the Exchange Control laws in force in its State permit a CARICOM Enterprise registered as such in its State to:

(a) keep such foreign accounts including portfolio securities in another Member State in which the CARICOM Enterprise is registered, as are required for the fulfilment of its objects;

(b) subject to any exchange control considerations, remit dividends and repatriate -

(i) assets on a winding-up; or

(ii) capital on reduction of its share capital, on no less favourable terms than those accorded to any investor in that State who is not a national.

4. Each Member State undertakes to:

(a) grant to a CARICOM Enterprise registered in its territory on terms no less favourable than is accorded to any other similar Enterprise of that Member State all licenses and permissions necessary for the proper conduct of the affairs of any CARICOM Enterprise registered as such in its State;

(b) grant to a CARICOM Enterprise registered in its territory treatment no less favourable than is accorded to any other similar Enterprise of a Member State in respect of State purchase or use of goods and services;

(c) allow to a CARICOM Enterprise in the Member States in which it operates, access to long-, medium- and short-term credit which is relevant to its operations on terms no less favourable than is accorded to any other similar Enterprise of a Member State.

(d) treat a CARICOM Enterprise, if necessary, as if it had been incorporated in its territory for the purpose of the conferment of benefits under the Scheme for the Harmonisation of Fiscal Incentives to Industry as set out in Article 3 of that Agreement;

(e) accord preferential treatment to a CARICOM Enterprise as against a non-regional Enterprise when granting incentives under the Scheme for the Harmonisation of Fiscal Incentives to Industry;

(f) consider a CARICOM Enterprise for the granting of such fiscal incentives as the Member State may think fit in respect of agriculture, tourism and forestry that are mutually agreed by Member States;

(g) consider the product of a CARICOM Enterprise for protection by quantitative restrictions or other forms of protection imposed at a uniform level by the Member States against imports from third countries on terms no less favourable than those which may be accorded to the product of any other similar Enterprise.

Article 13
Taxation of CARICOM Enterprises

1. The corporate profits of a CARICOM Enterprise shall be subject to tax except that where the equity capital is wholly-owned by Governments of Member States those Governments may agree otherwise.

2. Dividends and other distributions paid by a CARICOM Enterprise in respect of equity capital owned by Governments of any of the Member States shall not be subject to tax.

3. Governments of participating States may, by mutual agreement, waive the taxes on profits made by CARICOM Enterprises that engage solely in the business of intra- or extra-regional transport and communications.

4. Nothing in this Agreement shall prevent a CARICOM Enterprise from being eligible for fiscal incentives under the Scheme for the Harmonisation of Fiscal Incentives to Industry.

Article 14
Name of Caricom Enterprise

The name of a CARICOM Enterprise shall contain the letters (C.E.) At the end thereof.

Article 15
Undertaking as to Implementation

Member States undertake to introduce measures including the amendment of their municipal legislation so as to conform to this Agreement and enable this Regime to be established as soon as practicable.

Article 16
Settlement of Disputes

Disputes of an international character arising under this Agreement shall be settled under and in accordance with the procedure set out in Articles 11 and 12 of the Common Market Annex to the Treaty.

Article 17
Signature of Agreement

This Agreement is open for signature by any Member State.

Article 18
Ratification

This Agreement and any amendments thereto, shall be subject to ratification by Member States in accordance with their respective constitutional procedures. Instruments of Ratification shall be deposited with the Secretary-General of the Caribbean Community (hereinafter referred to as "the Secretary-General") who shall transmit certified copies to the Government of each Member State.

Article 19
Entry into Force

This Agreement shall enter into force upon the deposit of the fourth Instrument of Ratification in accordance with Article 18 of this Agreement.

Article 20
Amendments

1. This Agreement may be amended by three-fourths of the Member States including two of the More Developed Countries.

2. Any such amendment shall come into force upon deposit with the Secretary-General of the last of the Instruments of Ratification required in accordance with this Agreement and paragraph 1 of this Article.

3. The Secretary-General shall notify other Member States of the entry into force of any such amendment.

Article 21
Accession

Any new Member or Associate Member of the Common Market or any Member of the Caribbean Community may accede to this Agreement on the terms and conditions determined by the Conference of Heads of Government of the Caribbean Community.

Article 22
Withdrawal

1. A Member State that withdraws from membership or associate membership of the Common Market in accordance with Article 69 thereof shall, of a Party to this Agreement, be deemed to have withdrawn from this Agreement with effect from the expiration of the time limited by the said Article 69.

2. Without prejudice to paragraph 1 of this Article, a Party to this Agreement may withdraw from this Agreement by giving notice in writing to the Authority which shall promptly notify the other Parties to this Agreement; such withdrawal shall take effect twelve months after receipt of the notice by the Authority.

3. A Party to this Agreement undertakes to honour any financial obligations duly assumed while it continues to be a Party to this Agreement.

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

Done in a single copy which is deposited with the Secretary-General of the Caribbean Community who shall transmit certified copies to all Parties to this Agreement.

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THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, PROFITS OR GAINS AND CAPITAL GAINS AND FOR THE ENCOURAGEMENT OF REGIONAL TRADE AND INVESTMENT

Paragraph 1 of Article 72 of the Revised Treaty of Chaguaramas requires Member States of the Caribbean Community to conclude among themselves an agreement for the avoidance of double taxation in order to facilitate the free movement of capital in the Community. The concern about the free movement of capital in the Community is informed by the establishment of a single economic space through the revision of the Treaty of Chaguaramas. Establishment of a CARICOM Single Market and Economy requires, as an axiomatic corollary, the removal of all constraints on the free movement of the factors of production, for example, capital, labour, technology and management expertise.

Since, however, the Community is an association of sovereign states, despite its misleading nomenclature, the single economic space is being superimposed on discrete autonomous political and economic entities by way of convergent national legislation to implement commitments assumed at the international plane. Consequently, the Agreement under consideration will have to be enacted into domestic law in order to confer on persons entitled, the benefits under the Agreement.

The basic principle expressed in the Agreement is that "irrespective of the nationality or the State of residence of a person, income of whatever nature accruing to or derived by such person shall be taxable only by the Member State in which the income arises, except for the cases specified in this Agreement".

Pursuant to the principle set out above the Agreement provides, *inter alia*, that:

(a) income from immoveable property shall be taxable only in the Member State in which such property is located;

(b) except as otherwise provided, gains derived from the alienation of real estate situated in a Member State shall be taxed only in that State;

(c) profits resulting from business activities shall be taxable only by the Member State wherein the business activities are undertaken;

(d) profits derived by an enterprise of a Member State from the operation of ships or aircraft in international traffic shall be taxable only in that Member State;

(e) dividends paid by a company resident in a Member State to a resident of another Member State shall be taxed only in the first-mentioned Member State;

(f) interest arising in a Member State and paid to a resident of another Member State shall be taxed only by the first mentioned Member State;

(g) royalties arising in a Member State and paid to a resident of another Member State shall be taxed only in the first-mentioned Member State;

(h) management fees arising in a Member State and paid to a resident of another Member State shall be taxed only in the first mentioned Member State;

(i) income derived by an individual, who is a resident of a Member State engaged in rendering professional services of an independent character shall be taxable only by the Member State wherein such services are rendered;

(j) pensions, annuities, alimony and other periodic payments of a similar character paid by a resident of a Member State to an individual resident of another Member State shall be taxed only by the State from which the payment of such income is liable to be made.

The Agreement also provides for national treatment to other nationals of Member States.

AGREEMENT AMONG THE GOVERNMENTS OF THE MEMBER STATES OF THE CARIBBEAN COMMUNITY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, PROFITS OR GAINS AND CAPITAL GAINS AND FOR THE ENCOURAGEMENT OF REGIONAL TRADE AND INVESTMENT

The Governments of the Member States of the Caribbean Community desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, profits or gains and capital gains and for the encouragement of Regional Trade and Investment:

Have agreed as follows:

SCOPE, TAXES AND DEFINITIONS

Article 1
Scope of Agreement

This agreement shall apply to any person who is a resident of Member State in respect of which it has entered into force in accordance with Article 28.

Article 2
Taxes Covered

1. This Agreement shall apply to taxes on income, profits or gains and capital gains arising in a Member State in respect of which the Agreement has entered into force in accordance with Article 28 and which are listed in Schedule 1.

However, a Member State which introduces taxes on income, profits or gains and capital gains after the entry into force of this Agreement shall, by notification to the Secretariat, list in Schedule 1 those taxes which will be subject to this Agreement.

2. This Agreement shall also apply to any identical or substantially similar taxes which are imposed by a Member State after the date of signature of this Agreement in addition to, or in place of, those referred to in paragraph 1 of this Article.

3. The competent authorities of Member States shall notify all others of any substantial change in their laws relating to the taxes which are the subject of this Agreement, within three (3) months after such change.

Article 3
General Definitions

1. In this Agreement unless the context otherwise requires -

   (a) the word "company" means a body corporate or any entity which is treated as a body corporate for tax purposes;

   (b) the term "competent authority" means the Minister responsible for Finance or his duly authorised representative;

   (c) the term "enterprise of a Member State" means an enterprise that is carried on by a resident of a Member State;

   (d) the term "international traffic" means any transportation by a ship or aircraft operated by an enterprise of a Member State, except when the ship or aircraft is operated solely between places in one country and includes traffic between places in one country in the course of a journey which extends over more than one country;

   (e) the term "Member State" means one of the States listed in Schedule II and shall include the territorial waters of any such Member State and any area outside such territorial waters over which the State has sovereign rights or jurisdiction in accordance with international law.

   (f) the word "national" means -

      (i) a citizen of a Member State; or

(ii) a person who has a connection with that State of a kind which entitles that person to be regarded as belonging to or, if it be so expressed, as being a native, resident or belonger of the State for the purposes of such laws thereof relating to immigration as are for the time being in force; or

(iii) a company or other legal person deriving its status as such from the laws in force in a Member State or constituted in the Member State in conformity with the law thereof that such State regards as belonging to it;

(g) the word "person" includes an individual, a company and any other body of persons;

2. In the application of this Agreement by a Member State any word or term not defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws of that Member State relating to the taxes which are the subject of this Agreement.

Article 4
Residence

1. For the purposes of this Agreement, the term "resident of a Member State" means any person who under the law of that State is liable to tax therein by reason of that person's domicile, residence, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 of this Article an individual is a resident of more than one Member State, then the status of that individual shall be determined as follows:

(a) he shall be deemed to be a resident of the Member State in which he has a permanent home available to him; if he has a permanent home available to him in more than one Member State, he shall be deemed to be a resident of the Member State with which his personal and economic relations are closest (hereinafter referred to as his "centre of vital interests");

(b) if the Member State in which he has his centre of vital interests cannot be determined, or if he has no permanent home available to him in a Member State, he shall be deemed to be a resident of the Member State in which he has an habitual abode;

(c) if he has an habitual abode in more than one Member State or in none of them, he shall be deemed to be a resident of the Member State of which he is a national;

(d) if he is a national of more than one Member State or of none of them, the competent authorities of the Member States concerned shall determine the question by agreement.

3. Where by reason of the provisions of paragraph 1 of this Article a person other than an individual would be a resident of more than one Member State, then such

person shall, for the purposes of this Agreement, be deemed to be a resident of the Member State in which its place of effective management is situated.

TAXES ON INCOME

Article 5
Tax Jurisdiction

Irrespective of the nationality or State of residence of a person, income of whatever nature accruing to or derived by such person shall be taxable only by the Member State in which the income arises, except for the cases specified in this Agreement.

Article 6
Income from Immovable Property

1. Income from immovable property shall be taxable only in the Member State in which such property is situated.

2. The term "immovable property" shall be construed in accordance with the law of the Member State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture or forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the rights to work, mineral deposits, sources and other natural resources; but ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 of this Article, shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

Article 7
Capital Gains

1. Except as otherwise provided in this Article, gains derived from the alienation of real property situated in a Member State shall be taxed only in that State.

2. For the purposes of this Article real property includes -

   (a) immovable property referred to in Article 6;

   (b) shares or similar rights in a company, the assets of which consist wholly or principally of immovable property; and

   (c) an interest in a partnership trust or estate, the assets of which consist wholly or principally of immovable property.

3. Gains derived by an enterprise of a Member State from the alienation of ships, aircraft, or containers operated in international traffic shall be taxable only in that Member State.

4. Gains from the alienation of property other than property referred to in paragraphs 1 and 3 shall be taxable only in the Member State in which the gains arise.

Article 8
Business Profits

1. Profits resulting from business activities shall be taxable only by the Member State wherein such business activities are undertaken.

2. A business enterprise shall be regarded as undertaking activities in the territory of a Member State when it has in such Member State any of, but not limited to, the following:

(a) an office, or place of business management;

(b) a factory, plant, industrial workshop or assembly shop;

(c) a construction project in progress;

(d) a place or facility wherein natural resources are extracted or exploited, such as a mine, well, quarry, plantation or fishing boat;

(e) an agency, or premises, for the purchase or sale of goods;

(f) a depository, storage facility, warehouse or any similar establishment used for receiving, storing or delivering goods;

(g) any other premises, office or facilities, the purposes of which are preparatory or auxiliary to the business activities of the enterprise;

(h) an agent or representative.

3. In determining the profits from a business activity there shall be allowed as deductions expenses which are incurred for the purposes of that activity in accordance with the laws of the Member State in which such activity is undertaken.

4. Where an enterprise carries on business activities in more than one Member State, each State may tax profits from sources within its territory. If the activities are undertaken through representatives, or through the use of facilities such as those indicated in paragraph 1 of this Article, the profits earned shall be attributed to such representatives or facilities provided that such representatives or facilities are totally independent from the business enterprise.

5. Where the business profits include items of income which are dealt with separately in other Articles of this Agreement, the provisions of those Articles shall, except as otherwise provided therein, supersede the provisions of this Article.

Article 9
Shipping and Air Transport

1. Profits derived by an enterprise of a Member State from the operation of ships or aircraft in international traffic shall be taxable only in that Member State.

2. Profits derived from the operation of ships or aircraft used principally to transport passengers or goods exclusively between places in a member State shall be taxed only in that State.

3. The provisions of paragraph 1 of this Article shall also apply to profits derived by an enterprise of a Member State from the participation in a pool, a joint business or in an international operating agency.

4. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include profits derived from the rental of ships or aircraft if operated in international traffic by the lessee.

5. Profits of an enterprise of a Member State from the use, maintenance or rental of containers (including trailers, barges and related equipment for the transport of containers) shall be taxable only in that State to the extent that such containers are used for the transport of goods or merchandise in international traffic.

Article 10
Associated Enterprises

Where -

(a) an enterprise of a Member State participates directly or indirectly in the management, control or capital of an enterprise of another Member State; or

(b) the same persons participate, directly or indirectly in the management, control or capital of an enterprise of a Member State and an enterprise of another Member State;

and in either case conditions are made or imposed between the enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would but for those conditions have accrued to one of the enterprises, but, by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article 11
Dividends

1. Dividends paid by a company which is a resident of a Member State to a resident of another Member State shall be taxed only in the first-mentioned State.

2. The rate of tax on the gross dividends shall be zero per cent.

3. The provisions of paragraph 1 of this Article shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

4. In this Article, the word "dividends" means income from shares, mining shares, founders' shares or other rights, not being preference shares or debt claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

5. The rate of tax on gross dividends from preference shares shall not exceed the rate specified in Article 12.

Article 12
Interest

1. Interest arising in a Member State and paid to a resident of another Member State shall be taxed only by the first mentioned State.

2. The rate of tax shall not exceed fifteen per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, interest derived from sources within a Member State shall be exempt from tax in that Member State if it is beneficially owned by the Government of another Member State, or by an agency or other entity of that Government.

4. For the purpose of this Article, interest shall be deemed to arise in the Member State where the payer is that State itself, a political subdivision, a local authority or a resident of that State. However, where the person paying the interest carries on business through an office, branch or agency in a Member State, and such interest is borne by that office, branch or agency, such interest shall be deemed to arise in the Member State in which the office, branch or agency is situated.

5. Where, owing to a special relationship between the payer and the recipient of the interest or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim in respect of which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payment shall remain taxable according to the laws of the Member State in which the interest shall be deemed to arise.

6. In this Article, the word "interest" means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

7. The word "interest" shall not include any item of income which is treated as a distribution by the tax laws of a Member State.

Article 13
Royalties

1. Royalties arising in a Member State and paid to a resident of another Member State shall be taxed only in the first-mentioned State.

2. The rate of tax shall not exceed fifteen per cent of the gross amount of the royalties.

3. In this Article, the word "royalties" means payments of any kind received as consideration for the use of, or the right to use any copyright of literary, artistic or scientific work, including cinematograph films and films or tapes of radio or television broadcasting, any patent, trademark, design or model, plan, secret formula or process or other like property or rights, or for the use of or the right to use industrial, commercial

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or scientific plant or equipment, or for information concerning industrial, commercial or scientific experience; but does not include royalties or other amounts paid in respect of the operations of mines or quarries or in respect of the extraction or removal of natural resources.

4. Royalties shall be deemed to arise in a Member State in which the copyright, patent, trade mark, design, model, plan, secret formula, process or non-patented technical knowledge or other similar intangible property is used.

5. Where, owing to a special relationship between the payer and the recipient of the royalties or between both of them and some other person, the amount of the royalties paid having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship the provisions of this Article shall apply only to the last-mentioned amount. In that case the excess part of the payment shall remain taxable according to the laws of the Member State in which the royalty is deemed to arise.

Article 14
Management Fees

1. Management fees arising in a Member State and paid to a resident of another Member State shall be taxed only in the first mentioned State.

2. The rate of tax shall not exceed fifteen per cent of the management fees.

3. In this Article, the term "management fees" means payments of any kind to any person, for or in respect of the provision of industrial or commercial advice or for management or technical services or similar services or facilities, but does not include payments for professional services mentioned in Article 16.

4. Management fees shall be deemed to arise in a Member State when the payer is that Member State itself, a local authority or a resident of that Member State.

5. Where owing to a special relationship between the payer and the recipient of the management fees or between both of them and some other person, the amount of the management fees paid, having regard to the advice or services for which they are paid, exceeds the amount which would have been agreed upon by the payer and recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case the excess part of the payment shall remain taxable according to the laws of the Member State in which the management fees arise.

Article 15
Dependent Personal Services

1. Subject to the provisions of Articles 17, 19, and 20, salaries, wages and other similar remuneration derived by a resident of a Member State in respect of an employment shall be taxed only in the Member State in which the employment is exercised.

2. Notwithstanding the provisions of paragraph 1 of this Article, remuneration derived by a resident of a Member State in respect of an employment exercised in another Member State shall be taxed only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding an aggregate 183 days in the tax year; and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

(c) such remuneration is not deducted in arriving at the profits of a trade, business, profession or vocation which is carried on by the employer in the other Member State.

3. Notwithstanding the preceding the provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operating in international traffic shall be taxed only in the Member State in which the person operating the ship or aircraft is a resident.

Article 16
Independent Personal Services

1. Income derived by an individual, who is a resident of a Member State engaged in rendering professional services of an independent character shall be taxable only by the Member State wherein such services are rendered.

2. Where a resident of a Member State derives income from another Member State in respect of professional services or other independent activities of a similar character, such person shall be subject to tax in that other Member State but only in respect of such income as is attributable to the services or activities performed in that other Member State. In determining the income attributable to such services or activities there shall be allowed as a deduction such expenses wherever incurred as would be deductible in accordance with the laws of that other Member State.

3. In this Article, the term "professional services" includes, but is not restricted to, independent scientific, technical, literary, artistic, educational and teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 17
Directors' Fees

Directors'fees and similar payments derived by a resident of a Member State in his capacity as a member of the Board of Directors of a Company which is a resident of another Member State shall be taxed only in that Member State of which the payer is a resident.

Article 18
Entertainers and Athletes

1. Notwithstanding anything contained in this Agreement, income derived by entertainers, including theatre, motion picture, radio or television artistes and musicians, and by athletes, from their personal activities as such shall be taxed only in the Member State in which those activities are performed.

2. Where income in respect of personal activities of any entertainer or athlete as such accrues not to that entertainer or athlete himself but to another person, that income

shall, notwithstanding anything contained in this Agreement, be taxed only in the Member State in which the activities of the entertainer or athlete are performed.

3. The provisions of paragraphs 1 and 2 shall not apply to:

(a) income derived from activities performed in a Member State by entertainers or athletes if the visit to that Member State is substantially supported by public funds of the other Member State, including any political subdivision, local authority or statutory body thereof;

(b) a non-profit organisation no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof, or

(c) an entertainer or athlete in respect of services provided to an organisation referred to in subparagraph (b).

Article 19
Pensions and Annuities

1. Pensions, annuities, alimony and other periodic payment of a similar character paid by a resident of a Member State to an individual who is a resident of another Member State shall be taxable only by the State from which the payment of such income is liable to be made.

2. Any pensions paid by a Member State or local authority or under any Social Security or National Insurance Scheme established under the laws of a Member State shall be taxable only in that Member State.

3. In this Article, the word "pensions" means periodic payments made after retirement or death in consideration for services rendered, or by way of compensation for injuries received in connection with past employment.

4. In this Article, the word "annuities" means a stated sum paid periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make payments in return for adequate and full consideration in money or money's worth.

5. In this Article, the word "alimony" means periodic payments made pursuant to a decree of divorce or of separate maintenance or of separation.

Article 20
Government Service

1. (a) Remuneration other than pensions paid by a member State or local authority thereof to any individual in respect of services rendered to that Member State authority shall be taxable only in that Member State.

(b) However such remuneration shall be taxable only in another Member State if the services are rendered in that other State and the individual is a resident of that State who -

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. The provisions of this article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by a Member State or local authority thereof.

Article 21
Students and Trainees

1. An individual who is a resident of a Member State immediately before his visit to another Member State and who is temporarily present in that other Member State for the primary purpose of:

(i) studying in that other Member State at a University or other educational institution approved by the appropriate educational authority of that Member State;

(ii) securing training required to qualify him to practice a profession or a professional speciality; or

(iii) studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary or educational organisation, or as a participant in other sponsored programmes,

shall not be taxable in respect of;

(a) gifts from abroad for the purpose of his maintenance, education, study, research or training;

(b) the grant, allowance or award; and

(c) remuneration for employment in that other member State provided that the remuneration constitutes earnings reasonably necessary for the maintenance and education of such person.

2. The benefits under paragraph 1 shall only extend for such period of time as may be reasonable or customarily required to effectuate the purpose of the visit.

GENERAL PROVISIONS

Article 22
Non-Discrimination

1. The nationals of a Member State shall not be subjected in any other Member State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which the nationals of that other Member State in the same circumstances are or may be subjected.

2. The provisions of this Article shall not be construed as obliging a Member State to grant to residents of another Member State those personal allowances, credits and reliefs for tax purposes which are by law available only to residents of the first-mentioned Member State.

3. In this Article the term "taxation" means taxes which are the subject of this Agreement.

Article 23
Consultation

1. Where a person who is a resident of a Member State considers that the actions of one or more of the Member States result or will result in taxation not in accordance with this Agreement, such persons may, notwithstanding the remedies provided by the laws of those States, present a case to the competent authority of the Member State of which he is a resident.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve that case by agreement with the competent authority of the other Member State, with a view to the avoidance of taxation not in accordance with this Agreement.

3. The competent authorities of the Member States shall endeavour to resolve by agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

4. The competent authorities of the Member States may communicate directly with each other for the purpose of reaching an agreement in accordance with the provisions of the preceding paragraphs.

Article 24
Exchange of Information

1. The competent authorities of the Member States shall exchange such information as is necessary for the carrying out of this Agreement and of the domestic laws of the Member States concerning taxes covered by this Agreement in so far as the taxation thereunder is in accordance with this Agreement. Any information so exchanged shall be treated as secret and shall only be disclosed to persons or authorities including Courts and other administrative bodies concerned with the assessment or collection of the taxes which are the subject of this Agreement. Such persons or authorities shall use the information only for such purposes and may disclose the information in public court proceedings or judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Member States the obligation:

(a) to carry out administrative measures at variance with the laws or the administrative practice of that or/of the other Member States;

(b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Member States;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process the disclosure of which would be contrary to public policy.

Article 25
Diplomats and Consular Officials

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 26
Signature

This Agreement shall be open for signature by any Member State.

Article 27
Ratification

This Agreement and any amendments thereto shall be subject to ratification by the Member States in accordance with their respective constitutional procedures. Instruments of ratification shall be deposited with the Caribbean Community Secretariat which shall transmit certified copies to the Government of each Member State.

Article 28
Entry into Force

1. This Agreement shall enter into force on the deposit of the second instrument of ratification in accordance with Article 27 and shall thereupon take effect -

(a) in respect of taxes withheld at the source, on amounts paid or credited to a person, on the first day of the calendar month next following the month of deposit of the second instrument of ratification;

(b) in respect of other taxes, for the taxable years beginning on or after the first day of January next following the deposit of the second instrument of ratification.

2. Where a State ratifies this Agreement after it has entered into force, the Agreement shall take effect in relation to that State -

(a) in respect of the taxes mentioned in paragraph 1(a), on the first day of the calendar month next following the deposit of its instrument of ratification;

(b) in respect of other taxes, for the taxable years beginning on or after the first day of January next following the deposit of its instrument of ratification.

Article 29
Accession

1. A Member State of the Caribbean Community which is not listed in Schedule II to this Agreement may accede to this Agreement by depositing with the Caribbean Community Secretariat an instrument of accession which shall also specify the taxes to which this Agreement shall apply in respect of that Member State and references in this Agreement to a Member State shall, unless the context otherwise requires, include such an acceding Member State.

2. The Caribbean Community shall transmit a certified copy of the instrument of accession to the Government of each Member State which is a party to this Agreement.

Article 30
Termination

1. This Agreement shall remain in force indefinitely, but a Member State which is a party to this Agreement may on or before 30th June in any calendar year beginning after the expiration of a period of three years from the date of its entry into force, give to the other Member States, through diplomatic channels, written notice of termination.

2. In such event this Agreement shall cease to have effect in relation to that Member State -

(a) in respect of taxes withheld at source on amounts paid or credited to a person, from the first day of January next following the year in which the notice of termination is given;

(b) in respect of other taxes, for the taxable years commencing on or after the first day of January next following the year in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed the present Agreement.

SCHEDULE I

TAXES COVERED

The Taxes which are the subject of this Agreement are:

(a) in Antigua and Barbuda
  (i) Income Tax
  (ii) Business Tax

(b) in Belize
  - Income Tax

(c) in Dominica
  - Income Tax

(d) in Grenada
  - Income Tax

(e) in Guyana
  (i) Income Tax
  (ii) Corporation Tax
  (iii) Capital Gains Tax

(f) in Jamaica
  (i) Income Tax
  (ii) Transfer Tax in relation to Capital Gains

(g) in Montserrat
  - Income Tax

(h) in St. Kitts and Nevis
  - Income Tax

(i) in Saint Lucia
  - Income Tax

(j) in St. Vincent and the Grenadines
  - Income Tax

(k) in Trinidad and Tobago
  (i) Income Tax
  (ii) Corporation Tax
  (iii) Unemployment Levy
  (iv) Health Surcharge
  (v) Petroleum Profits
  (vi) Supplemental Petroleum Tax
  (vii) Business Levy

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CARIBBEAN EXPORT DEVELOPMENT AGENCY

As early as 1989 at Grand Anse, Grenada, the Conference of Heads of Government determined to deepen the regional economic integration movement through the establishment of a Single Market and Economy in order to achieve sustained economic development based on international competitiveness. Since then, intensification of the processes of globalisation and liberalisation has underscored the role of international competitiveness in sustainable economic development. For the States of the Caribbean Community, the disciplines of the World Trade Organisation (WTO) had begun to erode their preferential access to European markets and the FTAA process signalled the denouement of the Caribbean Basin Initiative (CBI) and the Caribbean-Canada Free Trade Agreement (CARIBCAN). It is in this context that the Caribbean Export Development Agency (CEDA) must be examined and evaluated.

The principal focus of CEDA is on the export development of the Member States. The objectives of the Agency include the establishment and implementation of comprehensive export development strategies and programmes; the continuation and expansion of trade policies that contribute to the goal of a single Caribbean market; the development of human resources and professional skills in the area of export development, the establishment, adaptation and strengthening of national and sub-regional entities dealing with export development and trade promotion and the establishment of special programmes geared towards export development in various areas and regions of the Caribbean.

The organs of the Agency are the Council of Ministers, the highest organ, the Board of Directors and the Executive Director. The Board of Directors is assisted in the performance of its functions by the Executive Committee comprising eight members elected from the Board of Directors. The Council of Ministers consists of Ministers of Government designated by Member States to represent them on the Council. All the powers of the Agency vest in the Council of Ministers which may delegate powers to the Board except those specified in the Agreement. The Council of Ministers has a curious voting system allowing its determinations to be reached by consensus, in the absence of which, by a simple majority vote unless the Agreement otherwise specifies. Subject to the requirement to report to the Council, the Board of Directors is responsible for the operations of the Agency and for the exercise of any powers conferred on it by the Council. The Executive Committee derives its powers from the Board.

The Executive Director is appointed by the Council of Ministers on the recommendation of the Board of Directors. The Executive Director is the chief executive

officer of the Agency and, subject to the direction of the Board of Directors, is responsible for conducting the ordinary business of the Agency. The Executive Director appears to enjoy the status of an international public servant whose loyalty is solely to the Agency. In the performance of his functions he should not be influenced by the Member States which have undertaken to respect the status of the Agency and to refrain from influencing the Executive Director and his staff in the performance of their functions.

It appears that the Agency possesses juridical personality in the jurisdictions of Member States of the Agency with capacity to contract, acquire and dispose of moveable and immoveable property and to be a party to legal proceedings. Member States accord the Agency in their jurisdictions the privileges, immunities and exemptions generally regarded as necessary for the efficient discharge of its functions. Officials of the Agency and representatives of Member States in the service of the Agency enjoy functional immunities.

AGREEMENT ESTABLISHING THE CARIBBEAN EXPORT DEVELOPMENT AGENCY (CARIBBEAN EXPORT)

The parties:

Determined to confront the challenges and to benefit from the opportunities, resulting from the globalisation and liberalisation of production and international trade;

Recognising the need for improved forms of regional integration that will be beneficial for the economies of the Caribbean States as well as the export oriented firms in these States;

Desirous to continue building on the regional and sub-regional experiences in trade and export development,

Have agreed to establish the Caribbean Export Development Agency (Caribbean Export), which shall operate in accordance with the following provisions:

Article 1
Definitions

For the purpose of this Agreement:

"Member State" means any one of the States referred to in Article 4, paragraph 1 and paragraph 2;

"CARIBBEAN EXPORT" means the Caribbean Export Development Agency;

"Agency" means the Caribbean Export Development Agency;

"Council" means Council of Ministers of Member States;

"Board" means the Board of Directors of CARIBBEAN EXPORT;

"Executive Committee" means the Executive Committee of the Board;

"Executive Director" means the Chief Executive Officer of CARIBBEAN EXPORT;

"Staff" means all personnel contracted and appointed by the Agency;

"CARICOM" means the Caribbean Community established by the Treaty of Chaguaramas in 1973;

"CEDP" means the CARICOM Export Development Project;

"Simple Majority" means more than half of all votes cast;

"Qualified Majority" means at least two thirds of all votes cast;

"Total Vote" means the sum of the votes of the Member States, and

"Votes Cast" means the sum of affirmative and negative votes.

Article 2
Objectives

1. The objectives of the Agency shall be to serve as a key instrument in attaining, inter alia:

(a) the establishment and implementation of comprehensive export development strategies and programmes, on an intra-regional and extra-regional level, selecting in particular, non-traditional export sectors, as part of the commitment of the Member States to promote regional integration in the service of socio-economic prosperity throughout the Caribbean;

(b) the continuation and expansion of trade policies that will contribute to the ultimate goal of a single Caribbean Market, in line with CARICOM initiatives in this respect and in close cooperation with the Dominican Republic and Haiti;

(c) the development of human resources and professional skills in the field of export development in selected sectors of the international trade of Member States;

(d) the establishment, the adaptation, and the strengthening of national and sub-regional entities dealing with export development and trade promotion;

(e) the actual, direct and indirect support for selected firms in the various Member States so as to develop and improve their (non-traditional) export products in order to enhance their opportunities for sustained competitiveness in international markets;

(f) the establishment of a trade information database and networks in order to improve contacts and data-exchange between commercial sectors in Member States and third countries;

(g) the establishment of special programmes geared towards export development in the various sectors and regions in the Caribbean requiring special attention.

2. Subject to a resolution of the Board, adopted by consensus, the Agency shall, in pursuing the objectives mentioned in paragraph 1 of this Article, strive for close cooperation with existing and future regional entities operating within the scope of the objectives of this Agreement.

3. Schedule 1 shall specify the objectives for the established programmes.

Article 3
Functions

1. In fulfilling its objectives, the Agency shall exercise the following functions:
   (a) developing, supervising and managing the programme activities as defined in work programmes and related policy decisions by the Council;
   (b) coordinating the programme of the Agency and consulting with other agencies with a view to developing and expanding the export potential at regional and extra-regional levels, and
   (c) financing its ongoing projects and administration, through:
      (i) funds that become available based on the Lome IV Agreement and successive agreements within the framework of the European Community;
      (ii) counterpart funding by Member States;
      (iii) other funding agencies; and
      (iv) the commercialization of some of its services.

2. Schedule 1 shall specify the policies, procedures and structures of the Agency. Schedule 2 shall make provisions for the appointment of Staff, their classification and the terms and conditions of employment.

Article 4
Membership

1. Membership of the Agency shall be open to the following States in accordance with Article 13, paragraph 2:

Antigua and Barbuda
The Bahamas
Barbados
Belize
Commonwealth of Dominica
Dominican Republic
Grenada
Guyana
Haiti
Jamaica
Saint Lucia
St. Kitts and Nevis

St. Vincent and the Grenadines
Suriname
Trinidad and Tobago

2. New members may be admitted in accordance with the procedures detailed in Schedule 1.

3. Associate Membership shall be open to countries and territories:

(a) belonging to the Caribbean;

(b) having developed programmes at an institutional level that would make cooperation with the Agency mutually beneficial;

(c) willing to accept participation as determined by the Council, and

(d) willing to observe the new membership procedure detailed in Schedule 1.

4. Associate membership may be conferred in accordance with the procedure detailed in Schedule 1.

5. Each member State shall have the right to terminate its membership of the Agency, in accordance with the procedure for withdrawal, in Schedule 1.

Article 5
Organs of the Agency

1. The Agency shall have the following organs:

(a) the "Council of Ministers" as composed by the Governments of the Member States;'

(b) the "Board of Directors" as composed by the Governments of the Member States from the public and/or private sector. This Board shall elect from among themselves eight (8) directors to serve as the "Executive Committee"; and

(c) the "Executive Director and Staff" as appointed and employed by the Agency.

2. These organs shall function in accordance with the rules and procedures of this Agreement, in general, and the rules and procedures of the Articles 5 :1 to 5:5 and Schedule 1, in particular.

Article 5:1
Council of Ministers

1. The Council shall comprise one (1) Minister designated by each Member State.

2. In the event that a Minister designated under paragraph 1 of this Article is unable to attend a meeting of the Council, the Member State shall designate an alternate.

3. All the powers of the Agency shall be vested in the Council.

4. The Council may delegate to the Board the authority to exercise the power of the Council, except the power to:

(a) amend the basic objectives and functions of the Agency;

(b) agree on terms and conditions for accession to this Agreement;

(c) approve Associate membership;

(d) formally endorse the withdrawal of a Member State;

(e) increase or decrease the established rate of contribution of an individual Member State;

(f) adopt amendments to the Articles of this Agreement;

(g) decide on appeals by Member States on decisions made by the Board concerning the interpretation or the application of this Agreement;

(h) approve the audited annual Statement of Income and Expenditures of the Agency;

(i) approve proposed agreements with extra-regional international organisations, and

(j) terminate the operations of the Agency.

5. The Council shall convene annually observing intervals of twelve (12) months. Special meetings of the Council shall be convened at the request of a simple majority of its members.

6. The presence at a meeting of two-thirds of the members shall constitute a quorum.

7. The Chairperson of the Council shall be appointed for a term of one (1) year and shall perform his duties until the appointment of the next Chairperson.

8. The Chairperson of the Board and the Executive Director shall participate in the meetings of the Council, without having the right to vote.

9. Members of the Council and alternates shall serve without compensation from the Agency.

10. Decisions of the Council shall be arrived at on the basis of consensus. Voting shall only take place when it is deemed necessary.

11. In the event that voting takes place, all matters before the Council shall be decided by a simple majority, except as otherwise provided for in this Agreement.

12. Each Member State shall have one (1) vote.

13. Schedule 1 shall specify the procedures with regard to the functioning of the Council.

Article 5:2
Board of Directors

1. The Board of Directors shall comprise one (1) Director designated by each Member State.

2. The powers of the Board shall include:

(i) those powers that may be delegated to it by the Council;

(ii) the responsibility for the conduct of the operations of the Agency; and

(iii) the power to introduce through resolutions adopted by consensus new Schedules as well as the power to amend existing Schedules in the same manner.

3. In the exercise of its powers the Board shall report to the Council.

4. The Board shall function for terms of two (2) years.

5. The Board shall meet semi-annually at the Headquarters of the Agency or in any other Member State that has agreed to host the meeting and that is willing to cover any extra budgetary expenses that may result from not meeting at headquarters. Extraordinary meetings may be summoned and held in the manner specified in Schedule 1.

6. The presence at a meeting of two-thirds of the number of Directors shall constitute a quorum.

7. The Board shall elect a Chairperson and a Deputy Chairperson from among the Directors. The Chairperson shall hold office for a period of two years and may be re-elected for one consecutive term. He shall continue in office until the election of the successor.

8. Subject to approval by the Council, the Board shall determine a reasonable per diem and travel expenses for the Directors or alternates who attend meeting of the Board.

9. Schedule 1 shall specify the procedures with regard to the functioning of the Board.

Article 5:3
Executive Committee

1. The Board shall elect an Executive Committee, comprising eight (8) Directors from among its membership.

2. The Executive Committee shall derive its authority from the Board.

3. The Executive Committee shall be chaired by the Chairperson of the Board.

4. The Executive Committee shall meet quarterly at the Headquarters of the Agency or in any other Member State that has agreed to host the next meeting and that is willing to cover extra-budgetary expenses that result from not meeting at headquarters.

5. Schedule 1 shall specify the procedures with regard to the functioning of the Executive Committee.

Article 5:4
Voting on the Board/Executive Committee

1. Decisions of the Board of Directors or the Executive Committee shall be arrived at on the basis of consensus. Voting shall only take place when it is deemed necessary by the Chairperson.

2. In the event that voting takes place, all matters before the Board or the Executive Committee shall be decided by a simple majority, unless otherwise provided for in this Agreement.

3. Each Director shall have one vote.

Article 5:5
Executive Director and Staff

1. The Council shall endorse the appointment of the Executive Director on recommendation of the Board.

2. If the appointee is, at the time of appointment, a Minister, Director, or an alternate, he or she shall resign from the position prior to taking up the duties as Executive Director.

3. The term of office of the Executive Director shall be two (2) years. He may be reappointed for consecutive terms of two (2) years.

4. The Executive Director shall conduct the ordinary business of the Agency, under the direction of the Board.

5. The Executive Director shall be the Chief Executive Officer of the Agency, and shall participate in the meetings of the Council, the Board and the Executive Committee, without the right to vote.

6. The Executive Director shall serve as Secretary of the meetings of the Board and of the Executive Committee.

7. The Executive Director shall appoint all Staff members except those to be appointed in those Senior Staff positions, reserved for appointment by the Board.

8. The Executive Director and Staff shall owe their duty entirely to the Agency, and in the discharge of their functions shall refrain from all attempts of discrimination against any one Member State.

9. Each Member State shall respect the international character of the Agency and shall refrain from all attempts to influence the Executive Director or any of the Staff in the discharge of their functions.

10. Schedule 1 and Schedule 2 shall specify the function, duties and responsibilities of the Executive Director and Staff.

Article 6
Offices of the Agency

1. The Headquarters of the Agency may be located in any one Member State. Barbados shall be the initial host country of the Headquarters of the Agency.

2. Whenever deemed necessary, the Agency may establish sub-regional offices in any one Member State. The Dominican Republic shall host a Sub-regional Office of the Agency.

3. The Agency shall enter into Headquarters and Sub-Regional Office Agreements, initially with the Governments of Barbados and the Dominican Republic, or any other Member State where it establishes its Headquarters or other Sub-regional Offices. These Agreements shall be embodied in Protocols.

4. The Protocols shall, in general, ensure a free and efficient operation of the Agency and the individuals employed by it within the territory of these Member States. More in particular, these Protocols shall provide for, inter alia:

(a) privileges and immunities, facilities and exemptions;

(b) the availability of adequate premises;

(c) the security of the premises, Staff and the properties of the Agency;

(d) the arrangement for remuneration of nationals employed by the Agency;

(e) arrangements regarding eventual direct or indirect taxes or any other fiscal charges with a similar effect, such as, VAT (Value Added Tax), reimbursements, and other mattes of this nature, and

(f) procedures for identification and legitimization of resident and non-resident Staff members and Consultants.

Article 7
Official Languages/Working Language

1. Dutch, English, French and Spanish shall be the official languages of the Agency. This means, for the purpose of this Agreement, that official documents resulting from the (annual) meetings of the Council and from the (bi-annual) meetings of the Board, respectively, shall be translated from English into Dutch, French and Spanish.

2. English shall be considered the working language of the Agency, provided that the Executive Director shall in close consultation with the Member State(s) requiring translation at meetings of the Board, ensure that adequate arrangements are made for the interpretation from English into Dutch and/or French and/or Spanish, as may be necessary.

Article 8
Suspension and Termination of Operations

1. In an emergency, the Board represented by the Executive Committee, may be unanimous approval temporarily suspend the Agency's operations to the extent which it considers necessary pending further consideration and action by the Council.

2. The Board may either lift the suspension or terminate the Agency's operations through a resolution, adopted by consensus, and subject to unanimous approval by the Council.

3. In the event of a decision to terminate, the Agency shall immediately cease all activities except those necessary for the orderly conservation and realization of its assets and the settlement of its outstanding obligations.

4. Until final realisation of its assets and final settlement of its obligations, the Agency shall remain in existence, and all rights and obligations of the Agency and of the Member States under this Agreement, shall continue unimpaired.

5. The Executive Committee shall make such arrangements as are necessary to ensure the orderly realisation of the Agency's assets. Before making any payments to creditors holding direct claims, the Executive Committee shall, by a qualified majority, establish reserves to ensure a pro rata distribution among holders of direct and contingent claims including Staff in accordance with the terms and conditions of services set out in Schedule 2.

6. Member States shall not withdraw their membership after the decision to terminate the Agency's operations has been taken.

Article 9
Status, Exemptions, Privileges and Immunities

1. The Agency shall possess juridical personality. It shall in particular have the capacity to:

(a) acquire and dispose of immovable and movable property;

(b) be a party to legal proceedings;

(c) contract; and

(d) create new legal entities, within the framework of its objectives and functions.

2. The assets and property of the Agency, their furnishings and other property thereon as well as their means of transport shall be immune from attachment, execution, search or requisition.

3. The archives and documents of the Agency, however held or stored, shall be inviolable at any time and wherever these may be located.

4. (a) To the extent necessary to effectively carry out the purpose and functions of the Agency and subject to the provisions of this Agreement, the Agency shall:

(i) hold property, funds and assets of whatever nature and may operate accounts in any currency; and

(ii) be free to transfer its assets from one country to another or within any country and to convert any currency held by it into any other currency.

5. All correspondence relating to the Agency and its functions shall be inviolable.

6. Any dividend or profit realised from the commercial activity of the Agency through any legal entity created under paragraph 1 (d) shall not be subject to fiscal charges or taxation.

7. (a) The property of the Agency shall be exempt from:

(i) any form of direct taxation. However, the Agency shall not claim exemption from taxes which are in fact, no more than charges levied for specific services rendered;

(ii) custom duties and from prohibition and restrictions on exports and imports in respect of articles exported or imported by the Agency for its official use; and

(iii) custom duties and other levies, prohibition and restrictions in respect of the export, import and sale of its publications;

(b) articles imported under the exemption of sub-paragraph 7 (a) (iii) shall not be sold within the territory of the Member State, except under conditions agreed to by the Government of that Member State.

8. Privileges and immunities granted to officials and individuals representing the Agency and performing duties within the framework of its objectives are specified in Schedule 4.

9. The privileges and immunities accorded by this Agreement and specified in Schedule 4 are granted in the interest of the Agency and not for the personal benefit of the individuals referred to in paragraph 8 above.

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(c) by entering into separate agreements with the Dominican Republic and Haiti for the same purpose;

(d) commercialisation of some of the Agency's services to be specified in a Schedule; and

(e) agreements concluded by the Agency with other funding agencies.

3. The Executive Director shall submit, through the Board, to the Council, the annual budget of the Agency not later than four (4) weeks before the end of the financial year.

4. The Executive Director shall as soon as practicable, but not later than three (3) months after the expiration of the financial year, submit to the Board, a report concerning the activities and financial affairs during the financial year and there shall be appended thereto:

(a) a Statement of Income and Expenditures, audited by auditors appointed by the Board; and

(b) any other information the Board may require.

5. The Board shall direct the Executive Director to:

(a) ensure that appropriate Books of Account are kept;

(b) submit at the end of each quarter of the financial year, a quarterly account of the income and expenditure of the Agency; and

(c) submit to Council for its approval the annual audited accounts, not later than four (4) months after the end of the financial year.

Article 11
Amendments

1. This Agreement can only be amended by a resolution of the Council, adopted by consensus.

2. Any proposal from a Member State to amend this Agreement, excluding the Schedules, shall be forwarded to all Member States by the Executive Director. The Executive Director shall submit the proposal to the Board, who shall refer it to the Council for a decision.

3. Any proposal from the Board to amend this Agreement, excluding the Schedules, shall be notified to all Member States through the Executive Director and referred to the Council for a decision.

4. The Schedules of this Agreement may be amended through a resolution of the Board, acting on its own discretion and under recommendation of the Executive Committee. A resolution to this effect may only be adopted by consensus.

5. The Executive Director shall promptly notify all Member States of Amendments to the Agreement adopted by the Council and the aforementioned Amendments shall enter into force upon receipt by the depository of the instruments of accession or ratification from at least ten (10) Member States.

6. The Member States shall be promptly informed concerning the amendments to the schedules adopted by the Board. These amendments shall enter into force on the date of the adoption of the resolution by the Board.

Article 12
Interpretation and Procedure for Settlement of Disputes

1. Any question of interpretation or application of the provision of this Agreement arising between any Member State and the Agency or between Member States shall be submitted to the Board for a decision. The Member State shall be entitled to participate in the deliberations of the Board during the consideration of the question in accordance with rules and procedures to be adopted by the Council.

2. In any case where the Board has given a decision under paragraph 1 of this Article, any Member State may require, within three (3) months from the date of notification of the decision, that the question be referred to the Council, which shall take a decision at its next meeting by a qualified majority. The decision of the Council shall be final.

3. Where the Council has been unable to reach a decision under paragraph 2, the question shall be submitted to arbitration in accordance with the procedures specified in paragraph 5, if any Member State so request within three (3) months after the final day of consideration of the question by the Council.

4. Any dispute between the Agency and any Member State which has withdrawn from the Agency or between the Agency and any Member State during the termination of the Agency's operations, shall be submitted to arbitration.

5. The arbitral tribunal shall consist of three (3) arbitrators. Each party to the dispute shall appoint one arbitrator. The two arbitrators so appointed shall appoint the third arbitrator, who shall be the Chairperson. If within forty-five (45) days of receipt of the request for arbitration either party has not appointed an arbitrator, if within thirty (30) days of the appointment of the two arbitrators, the third arbitrator has not been appointed, either party may request the Secretary General of the OAS to appoint an arbitrator. If the Secretary General of the OAS has been requested under this paragraph to appoint an arbitrator and if the Secretary General of the OAS is a national of a Member State, party to the dispute or unable to discharge his duties, the authority to appoint the arbitrator shall devolve to the Assistant Secretary General of the OAS . The procedure for arbitration shall be established by the arbitrators. However, the

Chairperson shall have the final say in matters of procedure in case of a pertinent disagreement. Decisions shall be taken on the basis of a simple majority. These decisions shall be considered final and binding upon the parties.

Article 13
Final Provisions

1. The States referred to in Article 4, paragraph 1 may become party to this Agreement by:

(a) signing the Agreement on November 25, 1995, or at any later date;

(b) ratifying the Agreement in accordance with their national laws; and

(c) the deposit of an instrument of accession or ratification.

2. The States referred to in Article 4, paragraph 2 may become party to this Agreement by depositing an instrument of accession or ratification after acceptance by the Council, in accordance with Schedule 1.

3. The State that is desirous to become an Associate Member shall be admitted on such terms and conditions determined by the Council. In the event that the application is approved by the council, this State shall deposit an instrument of ratification, in accordance with Schedule 1.

4. Eight (8) or more of the States referred to in Article 4, paragraph 1 may, upon signature on November 25, 1995, or later, or at any later date before this Agreement enters into force, declare their intention to apply it provisionally.

5. The Office of the Secretary-General of the OAS shall be the Depository of this Agreement.

6. The Agreement shall be registered at the offices of the Secretary General of the United Nations, in accordance with article 102 of the United Nations Charter.

7. This Agreement shall enter into force upon receipt, by the Depository, of the instruments of accession or ratification from at least ten (10) of the States listed in Article 4, paragraph 1. The Executive Director shall promptly notify the Governments of all Member States on the date of this deed.

8. Schedule 3 shall specify the measures to be taken to ensure an orderly transition from CARICOM Export Development Project (CEDP) to the Caribbean Export Development Agency (CARIBBEAN EXPORT) .

9. The numbered Schedules shall be attached to this Agreement. The Schedules shall indicate the related Articles and paragraphs of this Agreement in the heading.

10. The definitions of Article 1 and those of Schedule 1:1 shall apply to all Schedules of the Agreement.

11. This Agreement is drawn up in two originals in English, Dutch, French and Spanish respectively, each text being equally valid.

IN WITNESS THEREOF the undersigned representatives, being duly authorised by their respective Governments have signed this Agreement.

SCHEDULE 1

STATUTES OF THE CARIBBEAN EXPORT DEVELOPMENT AGENCY

(CARIBBEAN EXPORT)

Item 1
Definitions
[ref. Article 1]

In addition to the definitions listed in Article 1 of the Agreement, the following definitions shall be employed:

(a) "Agreement" means the Agreement for the establishment of the Caribbean Export Development Agency;

(b) "Financing Agreement" means each of the consecutive Agreements between the European Commission and the CARIFORUM States for the funding of programmes within the Trade Sector

(c) "CARIFORUM" means the entity comprising Caribbean States established to coordinate the allocation and undertake the monitoring of resources out of the Export Development Fund for the purpose of financing regional projects in the Caribbean Member States;

(d) "CARIFORUM Council of Ministers" means the Council of Ministers of the entity referred to in sub-item 1:1(c);

(e) "Secretary-General" means the Secretary-General of CARIFORUM who heads the CARIFORUM Secretariat; and

(f) "Delegations" means the Delegation of the Commission of the European Union based in Barbados, the Dominican Republic and Guyana.

Item 2
Names and Logo

1. The official names of the Agency shall be:

(a) "Agentschap voor Caraibische Exportbevordering" [Dutch];

(b) "Caribbean Export Development Agency" [English];

(c) "Agence du Caraibe pour le developpement de l'Exportation" [French];

(d) "Agencia del Caribe par el desarrollo de la exportacion" [Spanish].

2. The logo of the Agency shall be: "CARIBBEAN EXPORT" and is graphically rendered in Annex A.

3. The Logo may only be reproduced with the expressed authorisation of the Executive Director.

Item 3
Objectives and Functions
[ref. Article 2 and Article 3]

1. In compliance with its general objectives and functions as specified in Articles 2 and 3 of the Agreement and the Financing Agreement, the Agency shall fulfill a central implementing role and shall have a coordinating and overseeing function that may be detailed as follows:

(a) provide assistance to other implementing and cooperating agencies in the preparation of their annual work programmes and budgets;

(b) receive, analyse and advise implementing and cooperating agencies on their annual work programmes and budgets in strict compliance with the approved project document, financing proposal and financing agreement;

(c) advise on arrangements to adapt, change and to transfer from one item to another item, upon application for such changes by cooperating and implementing agencies and institutions;

(d) develop and submit consolidated annual work programmes and budgets as well as submit work programmes for individual components of the programme after submission by and agreement with cooperating and implementing agencies and institutions;

(e) authenticate, approve or effect transfers to, or payments by cooperating and implementing agencies and institutions;

(f) receive, analyse and submit quarterly performance reports and financial statements from cooperating and implementing agencies and institutions;

(g) advise on contracts and sub-contracts for work and for the employment of technical assistance and experts as may be required; and

(h) serve as the Secretariat of the Board and the Executive Committee.

2. The Agency shall employ a number of agencies, institutions and individuals that will act on its behalf, whose roles and functions may be outlined as follows:

(a) preparation of detailed draft work programmes and budgets for submission and consideration;

(b) recruitment, employment and retention of core staff either from its own resources or resources provided through the project;

(c) preparation on terms of reference, select and mobilisation of technical assistance as specified under the approved programme;

(d) undertaking of assignments and activities and the delivering of services as specified under the approved programme; and

(e) incurring approved expenditure, maintaining the appropriate financial records and submitting regular accounts in accordance with the provisions of the approved programme and approved EC financial regulations.

Item 4
Membership
[ref. Article 4, paragraphs 2-4]

1. A State in the Caribbean Region, other than those listed in Article 4, paragraph 1 of the Agreement, may apply and become a member of the Agency in accordance with the following procedure:

(a) the application shall submit to the Executive Director a diplomatic note, signed by a duly authorised representative of that State;

(b) the Executive director shall submit the diplomatic note to the Board:

(c) the Board shall prepare:

(i) a proposal;

(ii) an explanatory memorandum;

(iii) a formal recommendation

which shall be submitted to the Council accompanied by the diplomatic note referred to under sub-item 4: 1(a);

(d) the Council shall consider the application and notify the Board of its decision;

(e) in the event of a positive decision by the Council the Board shall invite the candidate Member State to deposit an instrument of accession to formalise its Membership as referred to in Article 13 paragraph 2 of the Agreement;

(f) in the event of a negative decision by the Council the Board shall promptly notify the applicant of the Council's decision, through the Executive Director.

2. (a) Observing the restriction of Article 8, paragraph 6 of the Agreement, a Member State that intends to withdraw from the Agency shall notify the Executive Director by diplomatic note four (4) months prior to the intended date of termination of Membership.

(b) The Executive Director shall prepare a resolution to be presented at the ensuing meeting of the Board.

(c) The draft resolution shall include:

(i) a transcript of the diplomatic note referred to in sub-item 4:2 (a) ;

(ii) a detailed report of the activities of the Agency in progress in that Member State;

(iii) a statement of the outstanding liabilities of the Member State; and

(iv) any information necessary to ensure an orderly withdrawal of the Member State.

3. The Board shall review the draft resolution and submit its recommendations to the Council.

4. The Council shall, at its ensuing meeting adopt the draft resolution by simple majority and the withdrawal shall be final, subject to the conditions specified by the Council with regard to outstanding liabilities and others.

5. The Executive Director shall promptly notify:

(a) the Member State requesting withdrawal;

(b) the other Member State; and

(c) the depository of the Agreement.

Item 5
The Council of Ministers : Rules and Procedures
[ref. Article and Article 5:1]

1. The Council comprises Ministers of their alternates annually designated by the Governments of the Member States. The CARIFORUM Council of Ministers shall initially constitute the Council of the Agency and shall be represented by the Secretary General between meetings.

2. The number of Ministers or their alternates constituting the Council shall be the same as the number of Member States. Member States shall notify the Secretary General of their intention to be represented by an alternate, when it is not possible for the nominated Minister to attend a meeting.

3. In accordance with the Financing Agreement, the Council may delegate such powers to the Board, as to enable them to fulfill the objectives and functions, detailed in Item 3 and Item 6, sub-section 8 of this Schedule. In the event of the expiration of the current Financing Agreement and/or the conclusion of new Agreements, the powers of the Board and the delegation of same shall be redefined by the Council. The delegation of power to the Board shall be effected through a resolution, adopted by consensus.

4. The meetings of the Council shall be governed by the same rules and procedures established for meetings of the CARIFORUM Council of Ministers, including the rules concerning the nomination of the Chairperson and the Deputy Chairperson.

5. The Chairperson of the Board shall present a report on the implementation of the programme and the realisation of the budget over the past year, at the annual meeting of the Council. This report shall be prepared by the Executive Director.

6. The Secretary General shall forward the minutes of the meetings of the Council to the Chairperson of the Board, who shall subsequently send these minutes to the Executive Director.

7. The Executive Director shall forward the reports of the meetings, including the minutes, to the following persons and institutions within two weeks after the meeting:

(a) the Governments of the Member States to the attention of the designated Ministers and their alternates;

(b) the Secretary General;

(c) the Chairperson and other members of the Board;

(d) all cooperating and implementing Agencies and Institutions; and

(e) the delegations.

Item 6
Board of Directors : Rules and Procedures
[ref. Article 5 and Article 5:2]

1. The Board comprises Directors or their alternates, as selected or replaced by the Government of each Member State.

2. The number of Directors or their alternates constituting the Board shall be the same as the number of Member States. Member States shall notify the Executive Director of their intention to be represented by an alternate, when it is not possible for the nominated Director to attend a meeting.

3. The Directors or their alternates shall serve on the Board for a term of two years, after which a new Board shall be appointed. In the event of an interim nomination of a Director or an alternate, he shall serve for the remainder of the current term of the Board.

4. A Director or alternate may resign at any time by giving written notice to the Chairperson and the Executive Director. The resignations hall take effect upon receipt of same.

5. A Director or alternate shall resign as a member of the Board in case:

(a) he is elected or appointed to a political office at a national or international level;

(b) he accepts a function in the Agency as member of the Staff or as a Consultant.

6. The Board shall be responsible for the conduct of the operations of the Agency, based on the powers delegated to it by the Council. In accordance with the Financing Agreement, these are the powers to:

(a) appoint independent auditors to audit the annual accounts of the Agency and to prepare reports and audited statements of accounts, as necessary;

(b) appoint Staff members to predetermined Senior Staff positions. The Chairperson of the Board shall provide the Executive Director with a detailed list of these positions;

(c) approve work programmes and budgets, presented by the Executive Director;

(d) develop proposals that may lead to new financial and other resources, so as to meet the needs of the Agency;

(e) maintain and develop relations with other regional/international entities and/or Governments, in order to facilitate and promote the objectives and programmes of the Agency;

(f) oversee and validate the overall direction and the policies of the Agency;

(g) prepare draft resolutions for decision by the Council;

(h) review reports, presented by the Executive Director regarding the implementation of the approved work programmes and budgets;

(i) select from its members, an Executive Committee, consisting of eight (8) Directors and alternates; and

(j) submit a proposal for the appointment of the Executive Director by the Council.

7. The Board shall meet semi-annually, observing intervals of six (6) months.

8. Extraordinary meetings of the Board may be summoned by the Chairperson of the Board or by two (2) or more Directors who submit their request through the Chairperson. The rules and procedures of the regular meetings shall apply.

9. The Board shall elect, by consensus, a Chairperson and a Deputy Chairperson from among its members. The Chairperson/Deputy Chairperson shall hold office for a term of two years and may be re-elected for not more than one (1) consecutive term.

10. The Chairperson shall preside at all meetings of the Board. In his absence from the meeting, the Deputy Chairperson shall preside. If the Deputy Chairperson is also absent from the meeting, the Directors present at the meeting shall elect an interim Chairperson to preside at that meeting.

11. In the event that a Chairperson has to be replaced for whatever reason, a new Chairperson shall be elected at the ensuing meeting of the Board. The Deputy Chairperson shall preside over the meeting, until the new Chairperson is elected. A similar procedure shall apply in case of the replacement of the Deputy Chairperson. Alternates of a Director who is an elected Chairperson or a Director who is an elected Deputy Chairperson shall not, unless elected, replace them in their capacity as Chairperson or Deputy Chairperson.

12. The Chairperson and the Deputy Chairperson shall serve in the same capacities on the Executive Committee.

13. The presence of two-thirds of the entire Board shall constitute a quorum at any meeting of the Board.

14. The Board shall strive for decision making by consensus. Voting shall only take place, when such is deemed unavoidable. The Meeting shall decide on the method of voting to be followed.

15. The Chairperson may introduce the resolution(s) to be voted upon, as initiated and seconded by at least two Directors at the meeting. Votes shall be cast by each Director or alternate, on the basis of one Member State, one vote. If the number of votes cast "in favour" and the number of votes cast "against" turn out to be equal, the Chairperson shall have the casting vote on the resolution under consideration. Decisions shall be made by a simple majority, unless otherwise stipulated in the Agreement.

16. Any decision that could be taken at a meeting of the Board or the Executive Committee, may be taken without a meeting, if all Directors consent in writing to the adoption of a resolution authorising such action. Such resolution and written consents shall be:

(a) filed with the minutes of proceedings of the Board; and

(b) be subject to final endorsement at the ensuing meeting of the Board or the Executive Committee.

17. The Board may from time to time invite representatives from other regional or extra-regional entities as observers to its meetings. These observers shall not have the right to vote.

18. The Board shall invite the CARICOM Secretariat as observer to its meetings.

19. In the event that the Board and/or an individual Director wishes to invite an expert for assistance at the meeting, the Chairperson shall be informed prior to the meeting, indicating name and position of this expert and the item(s) on the Agenda for which the expert assistance will be needed. These experts shall not have the right to vote.

20. Notice of the date, venue and the provisional Agenda, accompanied by the relevant documents, of a meeting of the Board shall be given by the Executive Director by mail, facsimile or courier to each Director at least twenty-one (21) days prior to the meeting.

21. The provisional Agenda for a meeting may include:

(a) confirmation of the minutes of the previous meeting and decisions, taken by written consent as referred to in sub-item 6:17;

(b) items referred to in sub-item 6 as presented by the Executive Director; and

(c) items requested by a Member State.

The items referred to in sub (b) and sub (c) shall be accompanied by explanatory memoranda and all relevant documents. Individual Directors are entitled to propose items for inclusion in the provisional Agenda at the commencement of the meeting. The Board shall establish the Agenda at the commencement of each meeting.

22. The Executive Director shall function as Secretary of the Board. In this capacity, he/she shall be responsible for:

(a) the minutes of the meeting;

(b) a report of the meeting of the Board, including any proposals for consideration by the Council of Ministers; and

(c) the preparation of the documents referred to in sub-item 6:22 (a) and 6:22 (b) in Dutch, English, French and Spanish.

The minutes, referred to in sub-item 6:22(a), shall be confirmed at the ensuing meeting.

23. The Executive Director shall forward the report of the meeting to the following institutions within two (2) weeks after the meeting:

(a) the Governments of the Member States:

(b) the Secretary General;

(c) the Members of the Board and their alternates;

(d) all cooperating and implementing Agencies and Institutions; and

(e) the Delegations; and

(f) the CARICOM Secretariat.

Item 7
Executive Committee : Rules and Procedures
[ref. Article 5 and Article 5:3]

1. In accordance with the Financing Agreement, the initial Executive Committee comprises:

(a) two (2) Directors selected jointly by Barbados, The Bahamas, Guyana, Jamaica and Trinidad and Tobago;

(b) one (1) Director selected by Belize;

(c) one (1) Director selected by the Dominican Republic;

(d) two (2) Directors selected jointly by Antigua and Barbuda, Dominica, Grenada, St. Kitts and Nevis, Saint Lucia and St. Vincent and the Grenadines;

(e) one (1) Director selected by Haiti;

(f) one (1) Director selected by Suriname, and

(g) the Executive Director, who shall serve as Secretary to the Executive Committee.

In the event of the expiration of the Financing Agreement of July 1995 and/or the conclusion of new agreements, the Board shall redefine the criteria, rules and procedures for the election of subsequent Executive Committees.

2. The Executive Committee shall have and exercise, between meetings of the Board, all powers of the Board, subject to such restrictions as may have been prescribed by the Board.

3. The Executive Committee shall have the following specific tasks:

(a) receive and review quarterly reports, prepared by the Executive Director;

(b) prepare semi-annual reports on the implementation of the work programme and the realisation of the budget on behalf of the Board;

(c) receive proposals from the Executive Director concerning the appointment of Senior Staff members with regard to the Staff positions to be filled by the Board;

(d) review the results of consultancies within the framework of the work programme; and

(e) prepare draft Schedules for approval by the Board.

4. Alternates, who have been nominated to the Board shall act in the same capacity as the designated members of the Executive Committee.

5. The duration of the tenure of office on the Executive Committee shall be the same as the duration of service on the Board.

6. The Executive Committee shall meet quarterly and shall observe the same procedures, applicable to meetings of the Board.

7. The presence of at least five (5) Directors shall constitute a quorum at any meeting of the Executive Committee.

8. The Executive Committee may from time to time invite observers and experts to its meetings under the same conditions as specified for meetings of the Board. In accordance with the Financing Agreement, the Executive Committee shall invite to their meetings:

(a) the Secretary General and the Secretariat;

(b) representatives of the implementing agencies; and

(c) representative of the Delegations.

9. The Executive Committee shall invite the CARICOM Secretariat as observer to its meetings.

Item 8
Executive Director and Staff
[ref. Article 5 and Article 5:4]

1. The Executive Director shall be appointed by the Board, by consensus. This appointment shall be endorsed by the Council, by consensus. In accordance with the Financing Agreement this appointment shall also require the approval of the European Development Fund.

2. The contract of employment detailing the rights and responsibilities of the Agency and of the Executive Director vice versa, shall be signed by the Chairperson of the Board and the Executive Director respectively. This contract shall be effective for consecutive terms of two (2) years.

3. The Executive Director may resign at any time by giving written notice to the Chairperson of the Board. The resignation shall take effect three (3) months after receipt of same, or so much earlier as the filling of the vacancy can be provided for by the Board.

4. The Executive Director shall cease to hold office at an time the Board so decides, by consensus.

5. Observing the Staff rules referred to in Schedule 2, the function of the Executive Director shall be considered terminated for any one of the following reasons:

(a) death

(b) incapacitating circumstances of a physical nature and/or moral nature, that constitute an impediment for fulfilling this function;

(c) dismissal by the Board; and

(d) resignation.

6. The stipulations of paragraph 1 to 5, shall equally apply to the Deputy Executive Director(s).

7. Vacancies occurring in the office of the Executive Director or Deputy Executive Director may be filled by action of the Executive Committee, until the next meeting of the Board, and until a successor is appointed, endorsed and approved, as referred to in sub-item 1 of this Item.

8. The Executive Director and his Staff members shall have all the powers and duties, provided for in these Statutes, subject to the control of the Board, and dictated by prevailing agreements with other entities.

9. The Executive Director appoints all Staff members except those to be appointed in those Senior Staff positions reserved for appointment by the Board. The policy and conditions for the recruitment and appointment of Staff are laid down in Schedule 2 and in the agreements concluded with the individual staff members.

Item 9
Compensation
[ref. Article 5:1, paragraph 9 and Article 5:2, paragraph 9]

No Minister, Director on the Board or Director on the Executive Committee or their alternates shall receive, for acting in such capacity, any compensation, payments to cover loss of earnings, or other emoluments from the Agency, not shall any such person receive fees or honoraria for attending meetings. The Board shall, after approval of its proposals by the Council, establish the rules for reimbursement of Directors or alternates, who incur travel and subsistence expenses in the attendance of meetings.

Item 10
Financial Arrangements
[ref. Article 3, paragraph 1(b) and Article 10]

1. The financial arrangements with regard to:
   (a) the acquisition of funds;
   (b) the disbursement of funds;
   (c) the accounting systems and procedures that apply; and
   (d) auditing

   shall be determined in separate Agreements with the funding agencies.

2. The Financing Agreement shall specify the prevailing arrangements as referenced to in sub-item 10:1.

Item 11
Final Provisions

1. The prevailing Financing Agreement is attached to this Schedule as Annex B.
2. Annex A and B shall form an integral part of these Statutes.

Article 5 and Article 5:4

SCHEDULE 2

APPOINTMENT OF STAFF: CLASSIFICATIONS, TERMS AND CONDITIONS

Item 1
Staff Structure

1. The Agency shall initially have its Headquarters in Barbados and a Sub-regional Office in the Dominican Republic. Protocols, established with the respective host Governments, provide for the public administrative conditions regarding the employment of resident Staff members, who are nationals or foreigners.

2. The organs of the Agency may be categorised as policy making and executive, respectively. The individuals who function at the policy making level shall not be part of the Staff, while those who function at the executive and implementation level shall constitute the Staff of the Agency. The Agency shall conclude agreements of employment with these individuals.

3. With the exception of the senior Staff positions reserved for appointment by the Board, as referred to in Schedule 1, Item 8:8, the Executive Director shall appoint all Staff members.

4. Three (3) levels of Staff may be identified, each with their classification and grading of positions:

Level 1:	Executive Director and Management	P1 - P5
Level 2:	Senior Staff	S1 - S5
Level 3:	Supporting Staff	A1 - A5

The grades within each classification may be extended.

Item 2
Terms and Conditions for Recruitment and Appointment of Staff Members

1. The recruitment and appointment of Staff members shall be based on Work Programmes, the Annual Budgets and Staff Rules, as designed and drafted by the Executive Director and recommended by the Executive Committee and approved by the Board.

2. The Work Programme shall outline the structure of the Organisation, including, inter alia:

(a) organisation and functional charts;

(b) statements of objectives, functions and responsibilities for each level, component and unit;

(c) a job classification plan; and

(d) written job descriptions.

3. The Work Programme shall clearly define the main objectives and the required functions and activities in time schedules.

4. Based on the Work Programme and the Annual Budget, the Human Resource planning shall include, inter alia:

(a) a programme, comprising selection, training, promotion and career planning;

(b) relevant qualifications;

(c) a salary structure, including emoluments and other compensations;

(d) establishment of performance standards and criteria to measure performance; and

(e) a programme to periodically appraise Staff performance in conformity with the established standards and criteria.

5. The Staff Rules shall be designed and structured to serve the objectives of the Agency. These regulations shall include the rights and obligations of the Staff members and establish rules of conduct and protocol. The agreements with the Staff members shall include the document entitled "Staff Rules", prepared by the Executive Director and approved by the Board on recommendation of the Executive Committee.

6. The policies for recruitment and appointment of Staff shall include, but are not limited to, the following:

(a) a specific description of the vacant position(s);

(b) a specification of the general and specific skills required;

(c) notification of vacancies in all Member States, employing adequate channels of communication;

(d) geographical distribution of Staff positions, with full acknowledgement of sub-item 2:7 (b).

Item 3
Privileges and Immunities

1. The Executive Director shall, from time to time, provide all Member States with:

(a) a detailed list of Staff members of the Agency who are holders of a "laissez passer", issued by the proper authorities.

(b) a detailed list of the Consultants contracted by the Agency, within the framework of the execution of the programme.

2. The Staff members, holding positions under the levels 1 and 2, shall enjoy the privileges and immunities, described in Article 9 of the Agreement and in Schedule 4 in general, and those mentioned in Schedule 4, item 4:1 and item 4:2 in particular.

3. The Staff members, holding positions under level 3, shall enjoy the privileges and immunities granted by the governments that host the Headquarters and the Sub-regional Offices of the Agency.

SCHEDULE 3

TRANSITION FROM CARICOM (CEDP) TO CARIBBEAN EXPORT

1. Until such time as the Executive Director is appointed and in function, the Chairperson of the Board, elected on October 23, 1995 within the framework of the Financing Agreement shall be legally entrusted with the general and specific tasks to:

(a) supervise, monitor and manage the legal establishment of the "Caribbean Export Development Agency", as provided for in the Financial Agreement between the European Commission and the CARIFORUM States, annexed to Schedule 1 as Annex B;

(b) initiate the process to have the Executive Director's appointment approved by the Board and the European Commission and endorsed by the Council at its meeting of November 1995;

(c) sign the "Agreement for employment" with Staff members who have been recruited and appointed to serve at the Headquarters and/or the Sub-regional Office;

(d) sign the "Protocol of Transition and Future Cooperation", which embodies the transfer of the Work Programmes, the managerial and the administrative functions from "CARICOM Export Development Project" to the "Caribbean Export Development Agency", within the framework of the Lome III and Lome IV Agreements with the European Commission on the one hand, detailing the future cooperation between CARICOM and the Agency on the other hand;

(e) sign the "Agreement for the transfer of assets and liabilities", which embodies the legal transfer of ownership and liabilities from CARICOM (CEDP) to the "Caribbean Export Development Agency"; and

(f) sign the Protocols with the Governments of Barbados and the Dominican Republic, respectively, as referred to in Article 6, paragraph 3 and 4.

2. Matters regarding acknowledgement and continuation of the privileges and immunities, acquired on the basis of privileges and immunities of CARICOM, shall be subject of special arrangements as part of the Headquarters Agreement, concluded with the Government of Barbados.

Article 9

SCHEDULE 4

PERSONAL PRIVILEGES AND IMMUNITIES

1. Subject to article 9, paragraph 8, Staff members of the Agency of the specified classes shall enjoy:

(a) immunity from legal process in respect of words, spoken or written, and all acts done by them in the course of the performance of official duties, even after the person concerned has ceased to be a Staff member of the Agency. However, this immunity shall only extend to official acts and oral or written expressions performed during the tenure of office.

(b) exemption from any form of taxation or any other fiscal charge on salaries and emoluments received as Staff members of the Agency.

(c) immunity from national service obligations.

(d) exemption for themselves, members of their families and dependents forming part of their household from immigration restrictions and alien registrations.

(e) the same facilities in respect of currency and exchange restrictions as are accorded to members of diplomatic missions of comparable rank; and

(f) the same repatriation facilities in time of international crisis for themselves, their families and dependents forming part of their household accorded to members of diplomatic missions of comparable rank.

2. Observing the Protocols that embody the Headquarters Agreement and the Sub-regional Office Agreement, respectively, Staff members of the Agency shall also enjoy the following privileges and immunities in addition to those listed in Item 1 of this Schedule.

(a) the right to export from a Member State free of duty and taxes or other fiscal charges with a similar effect their personal and household effects and one motor vehicle at the time of first taking up post as a Staff member of the Agency;

(b) the right to import into the Member State where the Headquarters or Sub-regional Office is located, free of duty and taxes or other fiscal charges with a similar effect, their personal and household effects and one motor vehicle at the time of first taking up post as a Staff member of the Agency;

(c) the right to import free of duty and taxes or other fiscal charges with a similar effect into the country of residence or to the country of which he is a national his personal and household effects including one motor vehicle on the termination of his duties in the Member State where the Headquarters or Sub-regional Office is located;

(d) the right to replace the motor or vehicle and the household effects, under the same conditions as stipulated in sub-item 2 (b) of this Schedule; and

(e) the right to sell to third parties the replaced personal and household effects and the motor vehicles.

3. In addition to the privileges and immunities specified in Items 1 and 2 of this Schedule, the Executive Director and the Deputy Executive Director who heads a Sub-regional Office shall be accorded in respect of self, the spouse and children, the privileges and immunities normally accorded to Heads of diplomatic missions in accordance with international law.

4. A consultant employed on missions on behalf of the Agency, while present in the territory of a Member State party to this Agreement shall in the discharge of his duties, enjoy:

(a) immunity from personal arrest and detention in respect of official acts and from seizure of their personal baggage, and the same inviolability for all papers and documents relating to work in which they are engaged for the Agency;

(b) the same facilities in respect of currency and exchange regulations as are accorded to representatives of foreign Governments on temporary official missions; and

(c) he shall enjoy in respect of words, spoken or written, and all acts done by them in the course of the performance of official duties the same immunity from legal process of every kind as is accorded to a diplomatic agent in accordance with international law, even after the person has ceased to be a Staff member of the Agency. However, this immunity shall only extend to official acts and expressions performed during the tenure of office.

5. A national of a Member State, while representing the Agency in the territory of that or another Member State shall in the discharge of his duties enjoy:

(a) the same immunity from seizure of his personal and official baggage, and the same inviolability for all papers and documents as is accorded to a diplomatic agent in accordance with international law;

(b) the right to use codes and to receive and send papers or correspondence by courier or in sealed bags;

(c) exemption in respect of himself and members of his family forming part of his household from immigration restriction, alien registration and national service obligations; and

(d) the same facilities in respect of currency or exchange restrictions and in respect of his official and personal baggage as are accorded to a representative of a foreign Government on a temporary official mission.

6. Any such representative shall also enjoy, in respect of words spoken or written and all acts done by them in the course of the performance of official duties, the same immunity from legal process of every kind as is accorded to a diplomatic agent in accordance with international law, even after the person has ceased to be a Staff member of the Agency. However, this immunity shall only extend to official acts and expressions performed during the tenure of office.

7. Schedule 2 shall classify the Staff members to whom Item 2 of this Schedule applies.

8. The Executive Director shall regularly notify the Governments of the Member States of the names and relevant personal data of the Staff members who enjoy the privileges, immunities and exemptions referred to in Items 1, 2 and 10 of this Schedule.

9. In the event of a change in the marital status of a Staff member during the tenure of office at the Headquarters or at a Sub-regional Office, the Agency shall ensure that immunities, privileges and exemptions derived from the marriage shall not be

enjoyed simultaneously by both the former and the current spouse.

10. The Executive Director may, subject to any conditions which may be laid down by the Council from time to time, issue "laissez-passer" to Staff members of the Agency. The "laissez-passer" shall be recognised and accepted as valid and sufficient travel documents by the Member States.

11. (a) Upon the presentation of the "laissez-passer" by a Staff member of the Agency, travelling on official business of the Agency, the Staff member shall only be subject to customs and immigration formalities as are required for diplomatic personnel of a comparable rank.

(b) Notwithstanding sub-item 11 (a) of this Schedule, the baggage of a Staff member is not exempt from inspection, in accordance with international law, when there are reasonable grounds for presuming that it contains articles, the export or import of which is prohibited by law or controlled by quarantine regulations.

(c) An inspection under sub-item 11 (b) of this Schedule shall be conducted only in the presence of the Staff member concerned.

12. Application for visas from experts and other persons who, though not holders of the Agency's "laissez-passer", present a certificate under the hand of the Executive Director certifying that they are travelling on business of the Agency shall be dealt with as speedily as possible.

13. Staff members of the Agency travelling on Agency's "laissez-passer" on business of the Agency shall be granted the same facilities as are accorded to officials of comparable rank forming part of the diplomatic missions to the Government concerned.

18

THE CARIBBEAN INVESTMENT FUND

One major constraint to equity financing of economic enterprises in the Caribbean Community is the absence of financial institutions to provide venture capital for such initiatives. The ICWI Group of Companies attempted to fill this void in 1993 by persuading Caribbean States to conclude the Agreement Establishing the Caribbean Investment Fund. Hesitancy on the part of prospective members of the Fund to provide the necessary consents, approvals and immunities and the generally unfavourable investment climate in the global economy at that material time, resulted in the first (1993) Agreement concerning the Caribbean Investment Fund never being operationalised. A supplemental Agreement to the original Agreement concluded in 1996 suffered a similar fate and it was not until 1998 that another Agreement Establishing the Fund was concluded and vigorous efforts undertaken by the CARICOM Secretariat to ensure that the necessary enabling legislation was passed. Consents and the required privileges and immunities to be recognised and granted by Member States were forthcoming in order to operationalise the Fund which was denominated in United States dollars and capitalised in the amount of US$50,000,000.

The objectives of the Fund as set out in the Agreement are to invest in private sector majority-owned and controlled companies and corporations located in participating States and listed or committed to be listed on the Stock Exchanges of participating states; to encourage and promote projects involving new ventures and business expansion and plant expansion of existing ventures geared towards enhancing exports or import substitution and/or increasing hard currency earnings, and/or increasing the production of goods and services designed to stimulate economic growth in the participating States in which the investment is made. The ICWI was tasked with management of the Fund and participating Governments committed to providing various concessions, privileges and immunities to the Fund. The Fund may carry on operations in the territory of any participating State and possesses in each participating State full juridical personality with capacity to contract and to acquire, hold and dispose of both real and personal property whether by way of mortgage, charge, transfer or sale or otherwise. No restrictions are to be placed on the transfer of shares within and outside the participating States to residents and non-residents. Further, participating States undertook to provide all approvals and consents to ensure restrictions would not be applicable to any investment or subscription of the Fund; gold or any currency held by the Fund; securities of whatever nature held by the Fund; any real or personal property or certificates of title relating thereto.

Participating States also undertook to ensure that no taxes, duties, levies or imposts would be payable on subscriptions to, or investments in, or securities issued, by the Fund; revenues, income dividends, interest or profits of whatever nature accruing to the Fund; the proceeds of sale, transfer or other disposition of securities issued to the Fund as a result of investing or funding of any project; profits, gains and capital gains and income generated by the Fund and remittances on interest dividends, distributions or other payments by the Fund.

These concessions and privileges, designed to encourage the mobilisation of venture capital and put the Fund on a favourable financial footing, have a time limit of ten years from the date of subscription to the second tranche of the Fund unless the participating State concerned determines otherwise.

The performance of the Fund and its operations are monitored by an Advisory Board consisting of seven members appointed by the participating States on an agreed basis. The Fund is required to provide written quarterly reports to the Advisory Board indicating the investments made to, or funding provided for projects and non-project activities. The Fund enjoys in Participating States for a period of five years, exclusive rights to invest and operate there as a CARICOM Regional Fund.

AGREEMENT CONCERNING THE CARIBBEAN INVESTMENT FUND

This Agreement made on the _____ day of August 1998 between the Governments of the Member States and Associate Members of the Caribbean Community which are signatories to the Agreement Establishing the Caribbean Investment Fund (hereinafter called "the Signatory States") and the ICWI Group Limited of 24-48 Barbados Avenue, Kingston 5 in the Parish of St. Andrew, Jamaica (hereinafter called "ICWI"),

WITNESSETH as follows:

WHEREAS:

The Parties to the Agreement Establishing the Caribbean Investment Fund (hereinafter called "the Fund") which entered into force on the 15th day of October 1993 (hereinafter called "the Original Agreement") have made the commitments specified in the Original Agreement which appears at Appendix 1 to this Agreement;

The Parties to the Original Agreement concluded a Supplemental Agreement which entered into force on the 26th day of October 1996 (hereinafter called "the Supplemental Agreement") amending the Original Agreement and which Supplemental Agreement appears at Appendix II to this Agreement;

The Signatory States of the Original Agreement recognise that their omission to implement in a timely way the enabling legislation to accord the agreed concessions and privileges to the Fund as required by the said Original Agreement and Supplemental Agreement, coupled with unfavourable conditions in international capital markets, adversely affected the ability of ICWI to mobilise the resources for the operation of the Fund;

The Signatory States of the Original Agreement by the relevant decisions of the Conference of Heads of Government (hereinafter called "the Conference") reached at the 14th and 15th Meetings of the Conference agreed, inter alia, to extend the time limit for the mobilisation of the resources and the registration of the Fund;

The Parties to the Original Agreement and the Supplemental Agreement have been and are desirous of fulfilling the obligations and commitments assumed under the said agreements;

The Parties to this Agreement have agreed as follows:

(i) Notwithstanding any action or lack of action on the part of any of the Parties to the Original Agreement which might have operated to call into question the subsistence of the Original Agreement or Supplemental Agreement, the Parties hereby agree to continue to be bound by the terms and conditions of the Original Agreement and Supplemental Agreement from the dates the said Agreements entered into force.

(ii) Subject to Clause 4, the provisions of the Original Agreement set out at Appendix 1 and the provisions of the Supplemental Agreement set out at Appendix II are hereby incorporated in this Agreement and shall bind the Parties to this Agreement like any other provision of this Agreement.

(iii) The Parties to the Original Agreement agree that the relevant decisions of the Conference relating to the Fund and which appear at Appendix III to this Agreement are hereby incorporated in this Agreement and shall have the same legally binding effect as the other provisions of this Agreement.

(iv) Unless the Signatory States otherwise determine, this Agreement shall terminate and the Parties shall thereupon be released from all obligations under this Agreement without incurring any liability to one another if ICWI fails to mobilise the resources for the first tranche of the Fund by 31 March 1999 or the second tranche by 30 September 1999.

(v) Nothing in this Agreement shall be construed as precluding any one Signatory State from according under its national legislation any or all of the privileges and concessions set out in the Original Agreement to any investment fund other than a regional investment fund organised on a basis similar to the Fund.

IN WITNESS WHEREOF the undersigned duly appointed in that behalf by their respective Governments and Company have signed this Agreement.

APPENDIX I

PART I: ORIGINAL AGREEMENT

AGREEMENT BETWEEN THE ICWI GROUP AND CARICOM GOVERNMENTS ON THE ESTABLISHMENT OF THE CARIBBEAN INVESTMENT FUND

This Agreement made between the Governments of the Member States and Associate Members of the Caribbean Community (CARICOM) listed in paragraph 1 of the Schedule to this Agreement which are signatories to this Agreement (hereinafter referred to as "the Signatory States") and ICWI Group Limited of 2 St. Lucia Avenue, Kingston 5 in the Parish of St. Andrew, Jamaica (hereinafter called "ICWI"), WITNESSETH as follows:-

1. *Objectives:*

1.1 To establish through a public company an investment fund or series of investment funds in United States Dollars to be known as the Caribbean Investment Fund (hereinafter called "the Fund") the main objects of which shall be the investment in private sector majority owned and controlled companies and corporations located in the Signatory States listed in the Schedule hereto preferably those which are listed or which have committed to the list on a stock exchange in any of the Signatory States. Such investment shall include but not be limited to investment by way of a new stock and share issues, joint venture participation, project financing, and loan funding.

1.2 The main thrust of investment by the Fund shall be the encouragement and promotion of projects involving new ventures, business expansion and plant expansion (including divestment and privatisation of public sector owned and/or controlled companies, corporations and authorities) which are geared towards increasing exports and/or fostering import substitution and/or increasing hard currency earnings and/or increasing production of goods or services which are projected to stimulate economic growth in the Signatory States in which the investment and/or funding is made.

2. *Establishment and Management of the Fund:*

2.1 ICWI shall be responsible For the establishment of the Fund which shall be capitalised at a minimum of Fifty Million United States Dollars (US$50,000,000) in two tranches. The first tranche or a minimum of US$25,000,000 shall be subscribed and paid up within 365 days of the entry into Force of this Agreement. The second tranche comprising the difference between the capital of the Fund and the amount of the first tranche shall be

subscribed and paid up within two years of the latest date For subscription of the first tranche.

2.2 ICWI shall be responsible For promoting the Fund and For procuring suitable managers of the Fund. The appointment of members of the Board of the Fund shall be made in accordance with the Charter and By-laws of the Fund.

2.3 Unless the Signatory States otherwise determine, if the first tranche is not fully subscribed and paid up within the period required by Clause 2.1 hereof this Agreement will Forthwith terminate.

2.4 In the event that the Signatory States determine that this Agreement should be terminated as provided in Clause 2.3 hereof, this Agreement shall terminate without ICWI incurring any liability whatsoever to the Signature States.

2.5 In the event that the Signatory States determine that this Agreement should not be terminated as provided in Clause 2.3 hereof, then such of the first tranche as has not been subscribed and paid up shall Form part of the second tranche to be subscribed and paid up within the further period required by Clause 2.1 hereof.

2.6 If the second tranche (including such amount of the first tranche pursuant to Clause 2.5 if applicable) is not fully subscribed within the period required by Clause 2.1 hereof, ICWI shall not incur any liability whatever to the Signatory States and the provisions of Clause 12 shall cease to apply, unless the Signatory States otherwise determine.

3. *Subscription of Capital to the Fund:*

3.1 The investment in the Fund shall be in hard currency. For this purpose, it shall be denominated in US Dollars.

4. *Concessions and Privileges of the Fund:*

4.1 ICWI and the Signatory States recognise that the grant of certain concessions and privileges to the Fund For a certain period of time will facilitate the establishment and operation of the Fund and enhance its viability and that the grant of concessions and privileges is subject to legislative and/or administrative authority as required in the respective Signatory States.

4.2 In consideration of the Fund becoming duly established as provided herein and of the Fund pursuing the objectives of Clause 1.2 in the Signatory States, each Signatory State hereby undertakes to ensure that the following concessions and privileges are granted to and may be enjoyed by the Fund in its territory -

4.2.1 The Fund's operations may be established in any Signatory State and the Signatory States will promptly provide all consents and approvals necessary For the establishment of the Fund's operations in their respective territories without any restrictions;

4.2.2 The Fund shall be entitled to acquire, hold and dispose of both real and personal property whether by way of purchase, mortgage, charge, transfer, sale or otherwise without any restriction;

4.2.3 The shares of the Fund shall be freely tranferable both within and outside of the Signatory States to residents and non-residents thereof without any restrictions;

4.2.4 The Signatory States will promptly provide all consents and approvals necessary in order to permit or provide that any restrictions (including, without limitation, exchange control restrictions) contained in any legislation or governmental or statutory order from time to time in Force in any of the Signatory States shall not be applicable to:-

4.2.4.1 any investment or subscription in the Fund whether made inside or outside and whether made by residents or non-residents of Signatory States.

4.2.4.2 gold and any currency held by the Fund whether issued by the Signatory States or not.

4.2.4.3 securities of any nature whatsoever including but not limited to shares, stocks, bonds, notes, debentures, debenture stocks, mortgages, charges or liens on realty, and personalty and units under a unit trust scheme whether issued by the Fund as part of its capitalisation or issued to the Fund as a result of any investment by the Fund including investment in or funding provided by the Fund in any project in a Signatory State;

4.2.4.4 any real and personal property and any certificates of title in relation thereto which Form part of or affecting any project in which the Fund has invested or provided funding in a Signatory State;

4.2.4.5 the remittance of the Fund of any profits, dividends, capital gains, interest and other income and revenues of whatsoever nature of and in the Fund and the proceeds of any sales, transfer or other disposition of any shares of the Fund and of any securities issued by or to the Fund.

4.2.5 The Signatory States will promptly provide all consents and approvals necessary in order to permit or provide that no taxes, duties, levies or imposts shall be payable on or levied in respect of any or all of the following:-

4.2.5.1 Subscriptions to or investments in the Fund and any securities issued by the Fund;

4.2.5.2 Revenues, income, dividends, interest or profits of whatsoever nature accruing to the Fund from any project in which the Fund has made an investment and/or provided funding;

4.2.5.3 The proceeds of sale, transfer or other disposition of any securities issued to the Fund as a result of any investment in and/or funding to any project by the Fund pursuant to the objectives For which the Fund was established;

4.2.5.4 Any revenue, profits (including capital profits), capital gains, and income generated by the Fund;

4.2.5.5 Remittances of any interest, dividends, distributions or other payments paid by the Fund to any subscriber, investor or shareholder in the Fund.

4.3 Unless otherwise agreed by the parties in writing, the Signatory State and each of them shall not be obliged to extend any or all of the concessions and privileges which they are obliged to grant to the Fund beyond the ten (10) years from the date of the subscription of the second tranche under Clause 2.1 hereof.

4.4 At the expiration of five (5) years from the date of the subscription of the second tranche under Clause 2.1 hereof, the parties shall either directly or through the Advisory Board consult and discuss the desirability of extending the concessions and privileges granted to and enjoyed by the Fund and if considered desirable the concessions and privileges granted to and enjoyed by the Fund shall be duly extended For such period as the Signatory States consider appropriate.

5. *Limitation on Investment in a Project:*

5.1 The Fund, in consultation with the Fund's manager, shall from time to time set the investment policy of the Fund in projects and the minimum and maximum investment by the Find in any single project.

6. *Policy on Investment in Signatory States:*

6.1 The Fund, in consultation with the Fund's managers, shall set the investment policy of the Fund in projects in Signatory States but they will nevertheless give due consideration to investing in every participating Signatory State from time to time. It is acknowledged that there is no obligation on the Fund and/ or the Fund's managers to invest in any particular Signatory State.

7. *Start Up Date:*

7.1 The proposed start up date of the Fund is 90 days after the entry into Force of this Agreement.

8. *Promotion of Capital Markets:*

8.1 The Fund and the Fund's managers will use their best endeavours to ensure that generally investment by the Fund will be in projects which will promote and enhance the capital markets in the Signatory States.

9. *Investment of Funds:*

9.1 Not less than 75 per cent of the funds from the first tranche and not less than 75 per cent of the total funds from both tranches shall, within two and three years, respectively, of the entry into Force of this Agreement, be invested in projects contemplated in Clause 1.

9.2 If the Fund fails to satisfy the requirements of Clause 9.1, the provisions of Clause 12 shall cease to apply unless the Signatory States otherwise determine.

10. *Borrowing by the Fund:*

10.1 Nothing contained in this Agreement shall restrict the Fund's right to borrow money from time to time and use same or any part thereof to invest in projects contemplated by Clause 1.

11. *Advisory Board:*

11. 1 There shall be an Advisory Board consisting of not more than 7 members to be appointed by the countries listed in Item 1 of the Schedule which become parties to this Agreement. Subject to Clause 11.2, each participating country shall have the right to appoint one (1) member to the Advisory Board.

11.2 For the purposes of Clause 11.1, such member countries of such Organisation of Eastern Caribbean States (OECS) and such Associate Members which have become parties to this Agreement, shall have the right collectively to appoint only one (1) member to the Advisory Board.

11.3 The function of the Advisory Board shall be to monitor the performance of the Fund and to liaise between the Signatory States and the Fund on matters relating to this Agreement and the performance of the Fund.

11.4 The Fund will provide written quarterly reports to the Advisory Board indicating the investments in and/or funding provided to projects by the Fund and the investment of its funds in non-project activities. The reports shall also include an outline of the status of projects being investigated for investment and/or funding.

12. *Exclusivity of Fund:*

12.1 The Signatory States recognise that in order for the Fund to be successful and meet its objective, the Fund needs exclusivity for investment in the Signatory States for a period of not less than 5 years and to this end undertake not to grant to any other CARICOM Regional Fund or institution, that is to say, a CARICOM Regional Fund institution established by Agreement open for signature by all CARICOM Member States, the concessions and privileges or any of them granted to the Fund under Clause 4.

12.2 During the existence of the Fund, the Signatory States undertake not to grant to any other fund or institution which is established to operate regionally in the Signatory States in competition with the Fund, any concession and privileges more favourable than those granted to the Fund from time to time.

13. *Entry into Force:*

13.1 Subject to Clause 13.2 this Agreement shall enter into force when it has been duly executed by ICWI and any number of the Signatory States listed in the Schedule hereto which number must include any three of the States of Barbados, Guyana, Jamaica and Trinidad and Tobago.

13.2 If this Agreement is not executed pursuant to Clause 13.1 within 60 days of the date that the CARICOM Secretary-General declares it to be open for signature, this Agreement shall not enter into force unless ICWI and the prospective Signatory States determine otherwise.

13.3 None of the parties hereto shall incur any liability to the other until after the date that this Agreement shall enter into force.

14. *Additional Parties to the Agreement:*

14.1 The parties hereto affirm that it is their intention that upon the incorporation of the Fund, the rights and obligations to be carried out and performed by the Fund and the Signatory States under this Agreement shall be binding on each of the Fund and the Signatory States. To this end, the parties hereto hereby acknowledge and agree each with the other than on its incorporation the Fund will become a party to this Agreement by depositing with the Secretary-General of the Caribbean Community at the Caribbean Community Secretariat a written notice duly executed by the Fund under its common seal stating that it undertakes to be bound by the terms and conditions of this Agreement as if it had been a signatory hereto at the time of the execution by the other parties. The deposit of the abovementioned notice will create a valid and binding Agreement between the Fund and the Signatory States, collectively and individually, as if the Fund had been an original party and signatory hereto.

14.2 The parties hereto acknowledge and recognise that non-signatory Member States or Associate Members of CARICOM listed in Item 1 of the Schedule hereto at the time this Agreement enters into force and countries to which paragraph 2 of the Schedule to this Agreement refers may wish to become parties to this Agreement subsequent to the entry into force of this Agreement. The parties hereto hereby acknowledge and agree each with the other than any Member State or Associate Member of CARICOM shall be entitled at any time to sign the counterpart of the Agreement deposited with the Secretary-General of the Caribbean Community at the Caribbean Community Secretariat pursuant to Clause 17 below and the signing thereof by the Government of such Member State or Associate member and each of them as if such Member State or Associate Member had been an original party and signatory hereto.

15. *Release of Obligations:*

15.1 After delivery of the written notice by the Fund under Clause 14.1 and after the date For subscription of the first and second tranches referred to in Clause 2.1, ICWI shall be deemed to have performed all of its obligations under this Agreement and shall be released from this Agreement.

16. *Amendments:*

16.1 This Agreement may be amended by consent of the parties hereto.

16.2 No amendment to this Agreement shall be binding on the parties unless it is in writing and duly executed by all the parties to the Agreement. Any such document amending this Agreement shall be deposited with the Secretary-General of the Caribbean Community at the Caribbean Community Secretariat within 30 days of its execution.

17. *Deposit of Agreement:*

17.1 This Agreement shall be deposited with the Secretary-General of the Caribbean Community and the Secretary-General shall furnish each party to this Agreement with a certified copy thereof.

18. *Jurisdiction for Registration of the Fund:*

18.1 The parties hereto agree that, at the discretion of ICWI and the Fund, the Fund shall be registered in a jurisdiction highly conducive to the enhancement of the attractiveness of the Fund in the eyes of prospective investors.

19. *Administrative Headquarters of the Fund:*

19.1 The Administrative Headquarters of the Fund shall be in Jamaica.

20. *Choice of Law:*

20.1 The parties hereto agree that prior to the written notice by the Fund under Clause 14.1, this Agreement shall be governed by the laws of Jamaica.

20.2 The parties hereto agree that prior to the written notice by the Fund under Clause 14.1, this Agreement shall be governed by the laws of England.

21. *Arbitration:*

21.1 The parties hereto agree that -

21.1.1 In the event of controversy, dispute or question arising out of or in connection with or in relation to this Agreement or its interpretation, performance or non-performance or any breach thereof, the matter shall first be subjected to negotiation.

21.1.2 If the controversy, dispute or question is not resolved by negotiation pursuant to Clause 21.1.1 hereof within 30 days, it shall be referred to arbitration.

21.1.3 All controversy, dispute or questions arising in connection with this Agreement, save and except as hereinafter provided, shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance with the said Rules.

21.1.4 Of any event giving rise to any controversy, dispute or question arises prior to ICWI being released under Clause 15.1, then such controversy, dispute or question shall be finally settled by arbitration before a single arbitrator under the Rules of Arbitration in accordance with the Arbitration Act of Jamaica as amended from time to time.

ANNEX TO
APPENDIX I
SCHEDULE

1. Antigua and Barbuda
   The Bahamas
   Barbados
   Belize
   Dominica
   Grenada
   Guyana
   Jamaica
   Montserrat
   St. Kitts and Nevis
   St. Vincent and the Grenadines
   Trinidad and Tobago
   The British Virgin Islands
   The Turks and Caicos Islands

2. Any other country which becomes a Member State of the Caribbean or an Associate Member of the Caribbean Community.

APPENDIX II
PART II: SUPPLEMENTAL AGREEMENT

SUPPLEMENTAL AGREEMENT TO THE AGREEMENT ESTABLISHING THE CARIBBEAN INVESTMENT FUND

This Agreement made between the Governments of the Member States and Associate Members of the Caribbean Community (CARICOM) which are signatories to the Agreement Establishing the Caribbean Investment Fund which entered into Force on October 14 1993 (hereinafter referred to as "the Signatory States") and ICWI Group Limited of 28-48 Barbados Avenue, Kingston 5 in the Parish of St. Andrew, Jamaica (hereinafter called "ICWI"), WITNESSETH AS FOLLOWS: That the Parties hereto have agreed that the Agreement Establishing the Caribbean Investment Fund which entered into Force on October 15, 1993 (hereinafter referred to as "the Original

Agreement") is hereby amended pursuant to Clause 16 of the Original Agreement by this Agreement (hereinafter referred to as "the Supplemental Agreement") in the following material particulars:-

1. *Objectives:*

1.1 The objectives of the Caribbean Investment Fund (hereinafter called "the Fund") as described in the Original Agreement shall be extended to permit investment by the Fund, of up to a maximum of 40% of the capital thereof in the countries listed in the Schedule to the Supplemental Agreement, provided that the managers of the Fund, after due consideration, have reasonable concluded that the investment opportunities in the Signatory States as contemplated by the objectives of the original Agreement will, from time to tome, be insufficient to provide a competitive return to investors in the Fund.

1.2 The Fund shall at all time give priority to investments of equal opportunity to investment in the Signatory States under the Original Agreement.

1.3 The objectives established in the Original Agreement shall equally apply to investment by the Fund in the countries listed in the Schedule to this Agreement.

2. *Establishment of the Fund:*

2.1 ICWI shall establish the Fund which shall be capitalised at a minimum of Fifty Million United States Dollars (US$50,000,000) within 365 days of this Supplemental Agreement entering into Force. Subscription shall be in two tranches: the first tranche or a minimum of US$25,000,000 shall be subscribed and paid up within 180 days of the entry into Force of this Supplemental Agreement. The second tranche comprising the difference between the capital of the Fund and the amount of the first tranche shall be subscribed and paid up within 365 days of the entry into Force of the Supplemental Agreement. In the event that the Fund is not fully capitalised within 365 days of this Supplemental Agreement entering into Force, the Original Agreement and this Supplemental Agreement shall Forthwith terminate unless the Signatory States otherwise determine.

2.2 In the event that the Signatory States determine that the Original Agreement and this Supplemental Agreement should be terminated as provided in Clause 2.1 hereof, the Original Agreement and this Supplemental Agreement shall terminate without ICWI incurring any liability whatsoever to the Signatory States.

3. *Concessions and Privileges of the Fund:*

3.1 The period of ten (10) years referred to in Clause 4.3 of the Original Agreement shall run from the date of the establishment of the Fund as provided herein.

3.2 The period of five (5) years referred to in Clause 4.4 of the Original Agreement shall run from the date of the establishment of the Fund as provided herein.

4. *Investment of Funds:*

4.1 Clause 9.1 of the Original Agreement shall be amended to provide that not less than 75% of the minimum amount to be invested in the Signatory States pursuant to this Supplemental Agreement be invested in projects in the Signatory States contemplated in Clause 1 of the Original Agreement within three years from the establishment of the Fund, failing which the provisions of Clause 12 "EXCLUSIVITY OF FUND" of the Original Agreement shall cease to apply unless the Signatory States otherwise determine.

5. *Entry into Force:*

5.1 This Supplemental Agreement shall enter into force when it has been duly executed by ICWI and the Signatory States which have executed the Original Agreement.

5.2 If this Supplemental Agreement is not executed pursuant to Clause 5.1 hereof within 60 days of the date the CARICOM Secretary-General declares to be open for signature, this Supplemental Agreement shall not enter into Force unless ICWI and the Signatory States determine otherwise.

5.3 None of the Parties to the Original Agreement shall incur any liability to the other if this Supplemental Agreement shall not enter into force.

6. *Additional Parties to this Supplemental Agreement:*

6.1 The Parties hereto acknowledge and recognise that non-Signatory Member States or Associate Members of CARICOM listed in Item 1 of the Schedule of the Original Agreement at the time this Supplemental Agreement enters into force and countries to which paragraph 2 of the Schedule to the Original Agreement refers may wish to become Parties to this Supplemental Agreement subsequent to its entry into force. The Parties hereto hereby acknowledge and agree with each other that any Member State or Associate Member of CARICOM shall be entitled at any time to sign the counterpart of this Supplemental Agreement deposited with the Secretary-General of the Caribbean Community at the Caribbean Community Secretariat pursuant to Clause 8.1 hereof and the signing thereof by the Government of such Member State or Associate Member and each of them as if such Member State or Associate Member had been an original party and signatory hereto.

7. *Release of Obligations*

7.1 After delivery of the written notice by the Fund pursuant to Clause 14.1 of the Original Agreement and after the time provided for subscription to the Fund referred to in Clause 2.1 hereof, ICWI shall notwithstanding anything to the contrary contained in the Original Agreement and this Supplemental Agreement, be deemed to have performed all its obligations under the Original Agreement and this Supplemental Agreement and shall be released therfrom.

8. *Deposit of Supplemental Agreement:*

8.1 This Supplemental Agreement shall be deposited with the Secretary-General of the Caribbean Community and the Secretary-General shall provide each party to this Supplemental Agreement with a certified copy thereof.

ANNEX TO

APPENDIX II

SCHEDULE

Colombia
Costa Rica
Cuba
The Dominican Republic
El Salvador
Guatemala
Haiti
Honduras
The United States of Mexico
Aruba and The Netherlands Antilles
Nicaragua
Panama
Venezuela
Bermuda
Cayman Islands

APPENDIX III

DECISION OF THE CONFERENCE OF HEADS OF GOVERNMENT REACHED AT ITS FIFTEENTH MEETING

[Rep. 94/15/47 HGC]

CARIBBEAN INVESTMENT FUND (CIF)

THE CONFERENCE:

Noted the report from the SCMF that-

(i) the Agreement For the establishment of the CIF entered into Force on 15 October 1993, with the signature of the Agreement by the Government of Guyana;

(ii) a Joint Venture Company between the ICWI and Foreign and Colonial Emerging Markets Limited of London had been Formed to manage the Fund;

(iii) the CIF had not yet been registered by the ICWI;

(iv) Member States had not yet enacted the domestic legislation or put in place the administrative arrangements required to provide the agreed incentives to the CIF but had the matter under active consideration;

(v) some Member States were still to amend existing legislation which will otherwise constrain the operation of the Fund in their respective jurisdictions;

(vi) The Bahamas, Grenada, the British Virgin Islands and the Turks and Caicos Islands had not yet signed the Agreement establishing the CIF;

(vii) the ICWI had requested an extension of the period provided in the Agreement to mobilise the first tranche of US$25M;

(viii) the provision relating to the registration of the Fund had not been satisfied and will also need to be extended;

Agreed -

(i) to extend the period For registration of the Fund to 15 October 1994;

(ii) to extend the period required to mobilise the first tranche of the resources by 180 days;

Requested the CARICOM Secretariat to work with the ICWI to determine the amendments to the Agreement to give effect to the agreed extensions;

Urged -

(i) Member States concerned to expedite action to put in place the domestic legislation required to provide the incentives to the CIF, and to amend, where necessary, their domestic legislation to facilitate the operation of the Fund in their respective jurisdictions;

(ii) Member States, which had not yet signed the Agreement For the CIF, to seek to do so.

DECISION OF THE CONFERENCE OF HEADS OF GOVERNMENT REACHED AT ITS SIXTEENTH MEETING

[Rep. 95/1/16/59 HGC]

CARIBBEAN INVESTMENT FUND (CIF)

The conference:

Having considered this Item in Caucus,

Noted that the Governments of Grenada and The Bahamas have, since the last Meeting of the Finance Managers, signed the Agreement For the establishment of the CIF;

Agreed to grant the ICWI Group of Companies a further extension until 1 July 1996 to mobilise resources For the first tranche of the CIF;

Urged that the ICWI Group of Companies uses its best endeavours to mobilise the financing for the first tranche of the CIF before 1 July 1996;

Also urged all Member States which have not yet done so, to implement the necessary legislation to facilitate the operation of the CIF.

DECISION OF THE CONFERENCE OF HEADS OF GOVERNMENT REACHED AT ITS NINETEENTH MEETING

CARIBBEAN INVESTMENT FUND (CIF)

The conference:

Agreed to enter into a new Agreement with the Insurance Company of the West Indies (ICWI) for a Caribbean Investment Fund (CIF) incorporating the exclusivity provision which is a pre-existing contractual obligation;

Also agreed that, to give effect to the Agreement, the States which are parties to it, will, if necessary, seek a WTO waiver.

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THE CARICOM MULTILATERAL CLEARING FACILITY

The foreign exchange crunch which beset most CARICOM non-oil producing Member States following the quintupling of oil prices in 1973 and the resulting escalation in interest rates, especially from private financial institutions, informed the initiative to establish among CARICOM Member States, a system of settling debts among themselves that would conserve scarce foreign exchange. This became known as the Multilateral Clearing Facility whose membership included Jamaica, Guyana, Barbados and Trinidad and Tobago.

The objectives of the Facility were to facilitate on a multilateral basis, settlement of payments for eligible transactions as agreed; to promote the use of currencies of Participating Governments in settling eligible transactions between the countries concerned thereby effecting economies in the utilisation of foreign exchange reserves, and to promote monetary cooperation among participating Governments and closer relations among their banking institutions thereby contributing to the expansion of trade and economic activities in the Caribbean Region.

The powers of the Multilateral Facility were vested in a Board of Directors comprising one representative of each Participating Government and who was entitled to nominate his alternate. The unit of account of the Multilateral Facility was the United States dollar and all accounts with the Facility were to be maintained in United States dollars and all payments of interest and related charges were to be made in United States dollars. Each Participating Government subscribed an agreed amount to the Multilateral Clearing Facility and enjoyed a line of credit from the Facility which bore a meaningful relationship to its subscription to the capital of the Facility.

Disciplines for the management of the Multilateral Clearing Facility were not readily enforced and the MCF collapsed after a few years of operation.

AGREEMENT ESTABLISHING THE CARICOM MULTILATERAL CLEARING FACILITY

Article 1
Establishment of Facility

The Central Banks and other Monetary Authorities of the Caribbean Community that are signatories to this Agreement (hereinafter referred to as the "Participants") hereby agree to establish a CARICOM Multilateral Clearing Facility (hereinafter called the "Facility") for making payments among their respective countries and territories on a multilateral basis, and the Facility is hereby established.

Article II
Aims and Objects

The Participants hereby agree that the aims and objects of the Facility shall be:

(a) To facilitate settlement on a multilateral basis, of payments for eligible transactions as may be defined in the Rules to be made under Section (3) (d) of Article III (hereinafter called "eligible transactions") among the countries and territories of the Participants;

(b) To promote the use of the Participants' currencies in settling eligible transactions between their respective countries and territories and thereby effect economies in the use of their foreign exchange reserves; and

(c) To promote monetary co-operation among the Participants and closer relations among the banking systems in their respective countries and territories and thereby contribute to the expansion of trade and economic activity in the CARICOM Region.

Article III
Board of Directors and Initial Procedures

1. The authority for the operation of the Facility shall vest in a Board of Directors (hereinafter called the "Board") which shall comprise representatives of the various Participants. Each Participant shall be entitled to have one representative on the Board and each representative may nominate an alternate director to act for him in his absence.

2. The Board, from among its members, shall elect a Chairman and a Deputy Chairman who shall preside over the board in the absence of the Chairman. The Chairman and Deputy Chairman will hold office for a period of two years but will be eligible for re-election.

3. The Board:

(a) shall appoint an Agent to provide the necessary services for the operation of the Facility;

(b) shall meet as often as is necessary but at least once a year. Meetings of the Board may be called by the Agent when the Agent considers it necessary, or at the request of any Participant;

(c) may establish a procedure whereby the Chairman may obtain the votes of the Directors on a specific question without calling a meeting of the Board;

(d) in consultation with the Agent, may make rules of procedure as are necessary for the organisation and operation of the Facility and such rules shall be observed by the Participants.

(e) shall be provided with an annual report by the Agent on the operation of the Facility. The report shall include an audited statement of accounts;

(f) shall determine the formula under which expenses for the operation of the Facility shall be apportioned among Participants; and

(g) may determine the procedures for the conduct of its business.

4. The Participants also hereby agree to the following:-

(a) The present Intraregional Payments Agreement shall terminate on 15th June 1977, and settlement shall be made in full on that date in United States dollars by the Participants to this Agreement;

(b) The CARICOM Multilateral Clearing Facility under this Agreement shall come into effect on 16th June 1977;

(c) The unit of account shall be the United States dollar;

(d) All accounts shall be maintained in United States dollars and all settlement payments and interest and charges in relation thereto shall be paid in United States dollars.

Article IV
Lines of Credit

The Lines of Credit agreed upon by the Participants are as follows:-

US Dollars (million)

PARTICIPANTS	EXTENDED TO FACILITY	EXTENDED BY FACILITY
Barbados	5.0	5.5
Belize	2.5	5.0
ECCA	5.0	5.5
Guyana	6.5	8.5
Jamaica	6.0	9.5
Trinidad & Tobago	15.0	6.0
TOTALS	40.0	40.0

Article V
Rates of Interest and Settlement Periods

1. (a) Interest will be payable by a debtor Participant on the net outstanding balance in excess of the equivalent of 20% of the maximum line of credit

to be extended to the debtor Participant as set out in Article IV at an interest rate to be determined by the Board. Such interest will be calculated by the Agent on a daily basis by the product method, taking a year as comprising 360 days and shall be payable by the debtor Participant on the instructions of the Agent at the end of each settlement period;

(b) Interest may also be charged in respect of delayed payments (including settlements and accrued interest) as may be prescribed in the Rules pursuant to Section 3 (d) of Article III;

(c) Interest earned under Section 1(a) and (b) of this Article may be utilised to meet expenses and/or to pay interest on creditor balances as may be decided by the Board.

2. Each settlement period shall end on March 15, June 15, September 15 and December 15 in each year and debtor Participants shall settle all balances outstanding on these dates, as may be advised by the Agent.

Article VI
Withdrawal of Participant

A Participant may withdraw from this Agreement on giving to the Board ninety (90) days' notice in writing: provided, however, that at the end of the notice all outstanding balances (including settlement payments and accrued interest) owed by or to the withdrawing Participant shall become due and payable and the provisions of this Agreement and the Rules made pursuant to Section 3 (d) of Article III shall continue to apply to the withdrawing Participant until all such outstanding balances have been paid together with any additional charges which may accrue as a result of payment after the due date.

SIGNED this 4th day of March 1977 for and on behalf of the Participants.

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THE ORGANISATION OF EASTERN CARIBBEAN STATES

Concern on the part of metropolises about the ability of the smaller islands of the Commonwealth Caribbean to survive as sustainable political entities following the demise of the West Indian Federation informed initiatives by the United Kingdom, Canada and the United States of America to establish a financial institution to mobilise and harness capital reserves for investment and to promote economic integration among those smaller islands. Quite apart from the concern about economic survival on a sustainable basis, metropolitan countries were also apprehensive that these countries might be entrapped by socialist propaganda and add a security dimension to the compendium of other legitimate concerns. Consequently, following the establishment of the Council of Ministers of the West Indies Associated States in 1966, most of these political entities were encouraged to conclude the Agreement Establishing the East Caribbean Common market in 1968. This was followed in 1981 by the conclusion of the Treaty Establishing the Organisation of Eastern Caribbean States (OECS) which incorporated the East Caribbean Common Market which was largely based on the CARIFTA Agreement concluded at Dickenson Bay in 1965 and amended by the Supplementary Agreement of March 1968.

The OECS included in its membership Antigua, Dominica, Grenada, Montserrat, St. Kitts/Nevis, Saint Lucia and St. Vincent and the Grenadines. Other States and territories of the Caribbean Region were entitled to be admitted to full or associate membership of the Organisation by the Authority, the highest decision-making organ. The purpose and functions of the Organisation were to promote cooperation among the Member States, unity and solidarity among the Member States and to defend their sovereignty, territorial integrity and independence; to assist Member States to discharge their responsibilities to the international community; to harmonise the foreign policies of Member States and to promote economic integration among the Member States.

The bodies of the Organisation consisted of the Authority of Heads of Government of the Member States, the Foreign Affairs Committee, the Defence and Security Committee, the Economic Affairs Committee and the Central Secretariat. The Authority is the supreme policymaking organ of the Organisation with responsibility for, and having general direction and control of, the functions, progressive development and achievement of the purposes of the Organisation. The Foreign Affairs Committee is charged with responsibility for the progressive development of the foreign policy of the Organisation and the general direction and control of the performance of the executive

functions of the Organisation in relation to foreign affairs. The Defence and Security Committee enjoys wide competence in the collective defence of the Member States, the preservation of peace and security against external aggression and for the development of close ties among the Members of the Organisation in relation to external defence and security. The functions of the Economic Affairs Committee were assimilated to the functions entrusted to the Council of Ministers of the Eastern Caribbean Common Market established by the Agreement of 1968 whose provisions were expressly incorporated in the Treaty Establishing the OECS to the extent of their compatibility. The Central Secretariat is responsible for the general administration of the Organisation. Officials of the Central Secretariat enjoy the status of international civil servants and must be cleared for security before their services are engaged. In appointing the staff of the Central Secretariat, due regard must be paid to the desirability of maintaining an equitable distribution of posts among citizens of Member States, subject to the paramount consideration of securing the highest standards of efficiency, competence and integrity.

In terms of coordinating and harmonising the foreign policies of Member States, Article 11 of the Treaty provides that unless there is objection by the receiving State, international organisation or conference, as the case may be, Member States may establish and maintain arrangements for joint overseas diplomatic or other representation, including when appropriate, the accreditation of one representative to one or more States, international organisations or conferences. The Director General of the Central Secretariat is authorised to transmit directives of the Authority on foreign policy matters to heads of overseas diplomatic missions and other missions established by the Organisation. Heads of diplomatic or other missions of the Organisation are appointed by the Authority after consultation with the Foreign Affairs Committee. The expenses for diplomatic or other representatives are apportioned among the Member States participating in the arrangements mentioned above.

TREATY ESTABLISHING THE ORGANISATION OF EASTERN CARIBBEAN STATES

Preamble

The Governments of the contracting states,

Convinced that the West Indies (Associated States) Council of Ministers since its establishment in 1966 has done much to further regional co-operation in many fields and has rendered valuable services to its member countries;

Recognising that since the establishment of the said Council of Ministers significant constitutional and other changes have taken place in the Region;

Affirming their determination to achieve economic and social development for their peoples as enunciated in the Agreement of the 11th day of June, 1968, establishing the East Caribbean Common Market;

Inspired by a common determination to strengthen the links between themselves by uniting their efforts and resources and establishing and strengthening common institutions which could serve to increase their bargaining power as regards third countries or groupings of countries;

Having in mind the strong views expressed by the said Council of Ministers regarding the desirability of retaining and formalising the arrangements for joint action by its member countries;

Determined to satisfy the legitimate aspirations of their peoples for development and progress;

Have agreed as follows:

Article 1
Establishment of the Organisation of Eastern Caribbean States

By this Treaty the Contracting Parties establish among themselves the Organisation of Eastern Caribbean States (hereinafter called "the Organisation") having the membership, powers and functions hereinafter specified.

Article 2
Membership

1. Full membership of the Organisation shall be open to those countries which immediately prior to the establishment of the Organisation have been members of the West Indies (Associated States) Council of Ministers namely:

(a) Antigua
(b) Dominica
(c) Grenada
(d) Montserrat
(e) St. Kitts/Nevis
(f) Saint Lucia
(g) St. Vincent and the Grenadines

2. The independent States listed in the preceding paragraph the Governments of which sign and ratify this Treaty in accordance with Article 20 thereof shall immediately become full members (hereinafter referred to as "the Member States") of the Organisation.

3. Notwithstanding that territory or group of territories listed in paragraph 1 of this Article is not a sovereign independent State, the Heads of Government of the Member states of the Organisation (hereinafter referred to as "the Authority") may by a unanimous decision admit such territory or group of territories as a full member of the Organisation and such territory or group of territories shall thereby qualify as a Member State under this Treaty.

4. Any other States or territories in the Caribbean region may apply to become Full or Associate Members and shall be admitted as such by a unanimous decision of the Authority. The nature and extent of the rights and obligations of Associate Members shall be determined by the Authority.

Article 3
Purposes and Functions of the Organisation

1. The major purposes of the Organisation shall be:

   (a) to promote co-operation among the Member States and at the regional and international levels having due regard to the Treaty establishing the Caribbean Community and the Charter of the United Nations;

   (b) to promote unity and solidarity among the Member States and to defend their sovereignty, territorial integrity and independence;

   (c) to assist the Member States in the realisation of their obligations and responsibilities to the international community with due regard to the role of international law as a standard of conduct in their relationship;

   (d) to seek to achieve the fullest possible harmonisation of foreign policy among the Member States; to seek to adopt, as far as possible, common positions on international issues and to establish and maintain wherever possible, arrangements for joint overseas representation and/or common services;

   (e) to promote economic integration among the Member States through the provisions of the Agreement Establishing the East Caribbean Common Market; and

   (f) to pursue the said purposes through its respective institutions by discussion of questions of common concern and by agreement and common action.

2. To this end the Member States will endeavour to co-ordinate, harmonise and pursue joint policies particularly in the fields of :

   (a) External Relations including overseas representation;

   (b) International Trade agreements and other External Economic Relations;

   (c) Financial and Technical Assistance from external sources;

   (d) International Marketing of Goods and Services including Tourism;

   (e) External Transportation and Communications including Civil Aviation;

   (f) Economic Integration among the Member States through the provisions of the Agreement Establishing the East Caribbean Common Market;

   (g) Matters relating to the sea and its resources;

   (h) The Judiciary;

   (i) Currency and Central Banking;

   (j) Audit;

(k) Statistics;

(l) Income Tax Administration;

(m) customs and Excise Administration;

(n) Tertiary Education including University;

(o) Training in Public Administration and Management;

(p) Scientific, Technical and Cultural Co-operation;

(q) Mutual Defence and Security; and

(r) Such other activities calculated to further the purposes of the Organisation as the Member States may from time to time decide.

Article 4
General Undertaking as to Implementation

Member States shall take all appropriate measures, whether general or particular, to ensure the carrying out of obligations arising out of this Treaty or resulting from decisions taken by the institutions of the Organisation. They shall facilitate the achievement of the purposes of the Organisation; in particular, each Member State shall take all steps to secure the enactment of such legislation as is necessary to give effect to this Treaty and decisions taken thereunder.

Article 5
Institutions of the Organisations

There are hereby established the following principal institutions through which the Organisation shall accomplish the functions entrusted to it under this Treaty:

(a) the Authority of Heads of Government of the Member States of the Organisation (referred to in this Treaty as "the Authority");

(b) the Foreign Affairs Committee;

(c) the Defence and Security Committee;

(d) the Economic Affairs Committee; and

(e) the Central Secretariat.

The institutions of the Organs shall perform the functions and act within the limits of the powers conferred upon them by or under this Treaty and by the Protocols thereto. They may establish such subsidiary institutions as they deem necessary for the performance of their functions.

Article 6
Composition and Functions of the Authority

1. The Authority shall be composed of Heads of Government of the Member States.

2. Any member of the Authority may, as appropriate, designate a Minister to represent such member at any meeting of the Authority.

3. Only Member States possessing the necessary competence in respect of matters under consideration from time to time shall take part in the deliberations of the Authority.

4. The Authority shall be the supreme policy-making institution of the Organisation. It shall be responsible for, and have the general direction and control of the performance of the functions of the Organisation, for the progressive development of the Organisation and the achievement of its purposes.

5. The Authority shall have power to make decisions on all matters within its competence. All such decisions shall require the affirmative vote of all Member States present and voting at the meeting of the Authority at which such decisions were taken provided that such decisions shall have no force and effect until ratified by those Member States, if any, which were not present at that meeting, or until such Member States have notified the Authority of their decision to abstain. Such decisions by the Authority shall be binding on all Member States and on all institutions of the Organisation and effect shall be given to any such decisions provided that it is within the sovereign competence of member States to implement them.

6. The Authority may make such recommendations and give such directives as it deems necessary for the achievement of the purposes of the Organisation and for ensuring the smooth functioning of the institutions of the Organisation.

7. The Authority may establish, and designate as such, institutions of the Organisation in addition to those specified in sub-paragraphs (b), (c), (d) and (e) of paragraph 1 of Article 5 of this Treaty, as it deems necessary for the achievement of the purposes of the Organisation.

8. Subject to the relevant provisions of this Treaty, the Authority shall be the final authority for the conclusion of treaties or other international agreements on behalf of the Organisation and for entering into relationships between the Organisation and other International Organisations and third countries.

9. Subject to the relevant provisions of this Treaty, the Authority shall take decisions for the purpose of establishing the financial arrangements necessary for meeting the expenses of the Organisation and shall be the final authority on questions arising in relation to the financial affairs of the Organisation.

10. The Authority shall meet at least twice a year. It shall determine its own procedure including that for convening meetings, for the conduct of business thereat and at other times, and for the annual rotation of the office of the Chairman among its members in accordance with the principle of alphabetical order of the Member States.

11. The Authority shall in addition meet in extraordinary session whenever it deems necessary in accordance with the regulations laid down in its rules of procedure.

Article 7
Composition and Functions
of the Foreign Affairs Committee

1. The Foreign Affairs Committee shall consist of the Ministers responsible for Foreign Affairs in the Governments of the Member States or such other Ministers as may be designated by the Heads of Government of the Member States.

2. Only Member States possessing the necessary competence in respect of matters under consideration from time to time shall take part in the deliberations of the Foreign Affairs Committee.

3. The Foreign Affairs Committee shall be responsible to the Authority. It shall take appropriate action on any matters referred to by the authority and shall have the power to make recommendations to the Authority.

4. The Foreign Affairs Committee shall have responsibility for the progressive development of the foreign policy of the Organisation and for the general direction and control of the performance of the executive functions of the Organisation in relation to its foreign affairs.

5. The decisions and directives of the Foreign Affairs Committee shall be unanimous and shall be binding on all subordinate institutions of the Organisation unless otherwise determined by the Authority.

6. Subject to any directives that the Authority may give, the Foreign Affairs Committee shall meet as and when necessary. It shall determine its own procedure, including that for convening meetings, for the conduct of business thereat, and at other times and for the annual rotation of the office of Chairman among its members in accordance with the principle of alphabetical order of the Member States.

Article 8
Composition and Functions of the Defence and Security Committee

1. The Defence and Security Committee shall consist of the Ministers responsible for Defence and Security or other Ministers or Plenipotentiaries designated by Heads of Government of the Member States.

2. Only Member States possessing the necessary competence in respect of matters under consideration from time to time shall take part in the deliberations of the Defence and Security Committee.

3. The Defence and Security Committee shall be responsible to the Authority. It shall take appropriate action on any matters referred to it by the Authority and shall have the power to make recommendations to the Authority. It shall advise the Authority on matters relating to external defence and on arrangements for collective security against external defence and on arrangements for collective security against external aggression, including mercenary aggression, with or without the support of internal or national elements.

4. The Defence and Security Committee shall have responsibility for coordinating the efforts of member States for collective defence and the preservation of peace and security against external aggression and for the development of close ties among the Member States of the Organisation in matters of external defence and security, including measures to combat the activities of mercenaries, operating with or without the support of internal or national elements, in the exercise of the inherent right of individual or collective self-defence recognised by Article 51 of the Charter of the United Nations.

5. The directions and directives of the Defence and Security Committee shall be unanimous and shall be binding on all subordinate institutions of the Organisation unless otherwise determined by the Authority.

6. Subject to any directives that the Authority may give, the Defence and Security Committee shall meet as and when necessary. It shall determine its own procedure, including that for convening meetings, for the conduct of business thereat and at other

times, and for the annual rotation of the Office of Chairman among its members in accordance with the principle of alphabetical order of the Member States.

Article 9
Composition and Functions of the Economic Affairs Committee

1. The Economic Affairs Committee (hereinafter referred to in this Article as "the Committee") shall consist of such Ministers in the Governments of the Member States as may from time to time be appointed to the Committee by Heads of Government of the Member States.

2. Only Member States possessing the necessary competence in respect of matters under consideration from time to time shall take part in the deliberations of the Committee.

3. The Committee shall have as its functions those functions entrusted to the Council of Ministers under the Agreement of 11th June, 1968, establishing the East Caribbean Common Market.

4. The provisions of the said Agreement, to the extent that they are not incompatible with the provisions of this Treaty, shall be deemed to be incorporated in and to form an integral part of this Treaty. The provisions of the said Agreement, are set out in Annex I to this Treaty.

Article 10
The Central Secretariat

1. The Central Secretariat (hereinafter referred to as "the Secretariat") shall be the principal institution responsible for the general administration of the Organisation.

2. The Secretariat shall comprise a Director-General and such other staff as the Organisation may require.

3. The Director-General shall be the Chief Executive Officer of the Organisation and shall have responsibility for the general direction and control of the Organisation. He shall be appointed by the Authority to serve in that capacity for a term of four (4) years and shall be eligible for re-appointment.

4. In the performance of his functions, the Director-General shall be responsible to the Authority, the Foreign Affairs Committee, the Defence and Security Committee and the Economic Affairs Committee. He shall be responsible for the general efficiency of the administrative service, for co-ordination of the activities of the organisation and for the operation of the administrative apparatus in general. He shall similarly be responsible to any institution established by the Authority pursuant to Paragraph 7 of Article 6 of this Treaty.

In particular, his duties shall include the following:

(a) to service meetings of institutions of the Organisation;

(b) to take appropriate follow-up action on decisions, recommendations or directives taken at such meetings;

(c) to keep the functioning of the Organisation under continuous review and to report his findings to the appropriate Chairman;

(d) to make reports of activities and an annual report to the Authority on the work of the Organisation; and

(e) to undertake such work and studies and perform such services relating to the functions of the Organisation as may be assigned to him from time to time and also make such proposals relating thereto as may assist in the efficient and harmonious functioning and development of the Organisation.

5. The terms and conditions of service of the Director-General and other staff of the Secretariat shall be governed by such rules and regulations as are approved by the Authority.

6. In appointing officers to posts in the Secretariat, due regard shall be paid, subject to the paramount consideration of securing the highest standards of efficiency, competence and integrity, to the desirability of maintaining an equitable distribution of appointments to such posts among citizens of the Member States. Subject to the provisions of this paragraph, the Director-General shall have the discretion to appoint all staff to the Secretariat provided that Directors are appointed with the prior approval of the Authority.

7. The Director-General shall have the responsibility to ensure that all persons found suitable for employment are duly cleared before engagement in respect of security.

8. In the performance of their duties the Director-General and other members of the staff of the Secretariat shall neither seek nor accept instructions from any Government or from any other authority external to the Organisation. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organisation.

9. Each Member State undertakes to respect the exclusive international character of the responsibilities of the Directory-General and other members of the staff of the Organisation and not to seek to influence them in the discharge of their responsibilities.

Article 11
Co-ordination and Harmonisation of Foreign Policy

1. Unless objection is offered by the receiving States or international organisations and conferences concerned, Member States of the Organisation may establish and maintain arrangements for joint overseas diplomatic or other representation, including, where appropriate, the accreditation of one representative to one or more States, international organisations or conferences.

2. Where such objection, referred to in the preceding paragraph, is made by an international organisation or conference by virtue of its constitution or rules of procedure or for any other reason and where the Member States are members of such organisation or conference, the Director-General shall take all appropriate steps, consistent with the constitution or rules of procedure of such organisation or conference, as to ensure the optimum realisation of the benefits of their membership of such organisation or conference.

3. The Director-General shall have the authority and responsibility for transmitting directives of the Authority on joint foreign policy matters to heads of overseas diplomatic and other missions established by the Organisation. He shall take precedence in matters of protocol over the heads of such missions.

4. Heads of diplomatic or other missions of the Organisation shall be recommended for appointment by the Authority after consultation with the Foreign Affairs Committee. Provided that they may at any time resign their offices by written notice to the Director-General, who shall promptly transmit such notice to the Member States of the Organisation.

5. Subject to the preceding paragraph, the staff of such missions shall be appointed by the Director-General. In appointing such staff he shall have due regard to the provisions of paragraphs 6 and 7 of Article 10 of this Treaty. The terms and conditions of service of such staff shall be governed by such rules and regulations as govern the staff at the headquarters of the Organisation.

6. The expenses for diplomatic or other representatives referred to in paragraph 1 of this Article shall be apportioned among the Member States participating in such arrangements.

Article 12
External Auditor

1. There shall be an External Auditor of the Organisation who shall be appointed and removed by the Authority.

2. Subject to the provisions of the preceding paragraph the regulations governing the terms and conditions of service and powers of the External Auditor shall be approved by the Authority.

Article 13
The Budget of the Organisation

1. There shall be established a budget of the Organisation.

2. All expenses of the Organisation shall be approved in respect of each financial year by the Authority and shall be chargeable to the budget.

3. Revenues of the budget shall be derived from annual contributions by the Member States and from such other sources as may be determined by the Authority.

4. The budget shall be in balance as to revenues and expenditures.

5. A draft budget for each financial year shall be prepared by the Director-General for the approval of the Authority.

6. There shall be special budgets to meet extraordinary expenditures of the Organisation.

7. Each Member State undertakes to pay regularly its annual contribution to the budget of the Organisation.

Article 14
Procedure for the Settlement of Disputes

1. Any dispute that may arise between two or more of the Member States regarding the interpretation and application of this Treaty shall, upon the request of any of them, be amicably resolved by direct agreement.

2. If the dispute is not resolved within three months of the date on which the request referred to in the preceding paragraph has been made, any party to the dispute may submit it to the conciliation procedure provided for in Annex A to this Treaty by submitting a request to that effect to the Director-General of the Organisation and informing the other party or parties to the dispute of the request.

3. Member States undertake to accept the conciliation procedure referred to in the preceding paragraph as compulsory. Any decisions or recommendations of the Conciliation Commission in resolution of the dispute shall be final and binding on the Member States.

Article 15
Participation in Other Arrangements

1. Nothing in this Treaty shall preclude any Member State from participating in other arrangements either with other Member States or non-Member States provided that its participation is such arrangements does not derogate from the provisions of this Treaty.

2. The rights and obligations arising from agreements concluded before the entry into force of this Treaty between Member States, or between Member States and other countries or organisations shall not be affected by the provisions of this Treaty.

3. To the extent that such agreements are not compatible with this Treaty, the Member State or States concerned shall take all appropriate steps to eliminate the incompatibilities established. Member States shall, where necessary, assist each other to this end and shall, where appropriate, adopt a common attitude.

Article 16
Relations with Other International Organisations and Other Countries

1. The Organisation shall seek to establish such relations with other International Organisations and other countries as may facilitate the attainment of its purposes. To this end, the Organisation may conclude formal agreements or establish effective working relationships with such Organisations and Governments of other countries.

2. The Organisation may decide, in accordance with its rules of procedure, to admit as observers at its deliberations representatives of non-Member States or other entities.

Article 17
Privileges and Immunities

1. The Organisation as an international organisation, shall enjoy legal personality.

2. The Organisation shall have in the territory of each Member State:

   (a) the legal capacity required for the performance of its functions under this Treaty; and

   (b) power to acquire, hold or dispose of moveable or immoveable property.

3. In the exercise of its legal personality under this Article, the Organisation shall be represented by the Director-General.

4. The privileges and immunities to be granted to the senior officials of the Organisation at its headquarters and in the Member States shall be the same accorded to members of a diplomatic mission accredited at the headquarters of the Organisation and in the Member States under the provisions of the Vienna Convention on Diplomatic Relations of 18 April 1961. Similarly the privileges and immunities granted to the Secretariat at the headquarters of the Organisation shall be the same as granted to diplomatic missions at the headquarters of the Organisation and in the Member States under the said Convention. Other privileges and immunities to be recognised and granted by the Member States in connection with the Organisation shall be determined by the Authority.

Article 18
Headquarters of the Organisation

The location of the headquarters of the Organisation shall be determined by the Authority.

Article 19
Setting-Up of the Institutions

1. At its first meeting after the entry into force of this Treaty the Authority shall, inter alia:

   (a) admit to membership in the Organisation the non-independent territories included in paragraph 1 of Article 2 of this Treaty, before consideration of any other matter;

   (b) appoint the director-General;

   (c) determine the headquarters of the Organisation;

   (d) make decisions for the establishment of financial arrangements for meeting the expenses of the Organisation; and

   (e) give such directions to the institutions of the Organisation as are necessary for the expeditious and effective implementation of the provisions of this Treaty.

Article 20
Signature and Ratification

1. This Treaty and any Protocols thereto which shall form an integral part of the Treaty, shall be open for signature to all countries specified in paragraph 1 of Article 2 of this Treaty.

2. This Treaty is subject to ratification by the signatories in accordance with their respective constitutional processes.

3. The original text of this Treaty shall be deposited with the Government of Saint Lucia which shall transmit certified copies thereof to all the signatories.

4. Instruments of ratification or accession shall be deposited with the Government of Saint Lucia, which shall notify all signatories of each such deposit.

Article 21
Entry into Force

This Treaty shall enter into force immediately upon receipt by the Government of Saint Lucia of the second instrument of ratification from the countries specified in paragraph 1 of Article 2 of this Treaty which have the status of Independent States.

Article 22
Admission to Membership
Accession and Adherence

1. After this Treaty has entered into force in accordance with the provisions of Article 21 thereof, any independent State or Territory specified in Article 2 of this Treaty may apply to the Authority to become a Full Member or Associate Member of the Organisation and may, if the Authority so decides, be admitted as such in accordance with paragraphs 3 and 4 of Article 2 of this Treaty respectively.

2. Unless otherwise desired by the Authority, admission to full membership of the Organisation shall take effect immediately upon a decision to that effect by the Authority.

3. Each Territory admitted to full membership of the Organisation shall accede to this Treaty in accordance with the provisions of paragraph 4 of Article 20 thereof upon its attainment of independent statehood.

4. Any independent State or Territory in the Caribbean region may at any time notify the Director-General of its intention to adhere to this Treaty.

5. The Director-General shall, on receipt of such notification, transmit a copy of to all the signatories and to the Government of Saint Lucia.

6. The terms and conditions of adherence in any particular case shall be determined by the Authority.

Article 23
Declaration of Non-Participation

Any Member State may, either on becoming a member of the Organisation or within a period not exceeding twelve (12) months thereafter, declare in writing to the

Director-General its intention to withhold its participation in respect of Foreign Affairs and/or Defence and Security matters of the Organisation. The Director-General shall on receipt of such declaration promptly transmit a copy of it to all other Member States of the Organisation. Such declaration shall take effect on the date of its receipt by the Director-General.

Article 24
Withdrawal

1. This Treaty shall be of unlimited duration.

2. Any Member State, whether a Full Member or an Associate Member, may withdraw from the Organisation if it decides that extraordinary events, related to the subject-matter of this Treaty, have seriously endangered its supreme national interests. It shall give written notice of such withdrawal to the Director-General who shall promptly notify the other Member States and the Government of Saint Lucia. Such withdrawal shall take effect twelve (12) months after the notice is received by the Director-General.

3. Any Member State which withdraws from the Organisation shall discharge its financial obligations to the Organisation and shall respect any commitments undertaken before the effective date of withdrawal.

4. Any Member State which withdraws from the Organisation during the period of its operation has no claim to any part of the proceeds until the liquidation of the assets of the Organisation on the termination of this Treaty at which time it shall be entitled to the value of its assets as at the date of withdrawal.

Article 25
Amendments

1. Any Member State may make written proposals for the amendment of this Treaty and any Protocols thereto.

2. Amendments shall be effected by a unanimous decision of the Authority. They shall come into force on the thirtieth day following the date of their receipt by the Government of Saint Lucia. The text of any amendment shall be promptly communicated by the Director-General to the said Government which shall transmit certified copies thereof to all the signatories to this Treaty and shall also inform them of the date of entry into force of any such amendment.

Article 26
Registration

This Treaty and all its Protocols shall by registered by the Government of Saint Lucia with the Secretariat of the United Nations pursuant to Article 102 of the Charter of the United Nations and shall also be registered with the Secretariat of the Caribbean Community.

Article 27
Transitional Arrangements

Until such time as the Director-General is appointed the powers and functions of the said officer shall be exercised by the Executive Secretary of the Council of Ministers of the West Indies Associated States.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorised thereto by their respective Governments, have signed the present Treaty.

DONE at Basseterre this Eighteenth day of June, One thousand nine hundred and eighty-one.

ANNEX A

CONCILIATION COMMISSION

1. A list of conciliators consisting of qualified jurists shall be drawn up and maintained by the Director-General of the Organisation. To this end, every Member State shall be invited to nominate two conciliators, and the names of the persons so nominated shall constitute the list. The term of a conciliator, including that of any conciliator nominated to fill a casual vacancy, shall be five years and may be renewed. A conciliator whose term expires shall continue to fulfil any function for which he shall have been chosen under the following paragraph.

2. (a) When a request has been made to the Director-General under Article 14, the Director-General shall bring the dispute before a Conciliation Commission constituted as follows:

The Member State or Member States constituting one of the parties to the dispute shall appoint:

(i) one conciliator who is a citizen of that State or of one of those States and who may or may not be chosen from the list referred to in paragraph 1; and

(ii) one conciliator who is not a citizen of that State or of any of those States and who shall be chosen from the list.

(b) The Member State or Member States constituting the other party to the dispute shall appoint two conciliators in the same way. The four conciliators chosen by the parties shall be appointed within thirty days following the date on which the Director-General received the request.

(c) The four conciliators shall, within thirty days following the date of the last of their own appointments, appoint a fifth conciliator chosen from the list, who shall be Chairman.

(d) If the appointment of the Chairman or of any of the other conciliators has not been made within the period prescribed above for such appointment, it shall be made by the Director-General within thirty days following the

expiry of that period. The appointment of the Chairman may be made by the Director-General either from the list or from the membership of the International Law Commission. Any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute.

(e) Any vacancy shall be filled in the manner prescribed for the initial appointment.

3. The Conciliation Commission shall decide its own procedure. The Commission, with the consent of the parties to the dispute, may invite any Member State of the Organisation to submit to it its views orally or in writing. Decisions and recommendations of the Commission shall be made by a majority vote of the five members.

4. The Commission may draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement.

5. The Commission shall hear the parties, examine the claims and objections, and make proposals to the parties with a view to reaching an amicable settlement of the dispute.

6. The Commission shall report within six months of its constitution. Its report shall be deposited with the Director-General and transmitted to the parties to the dispute. The report of the Commission, including any conclusions stated therein regarding the facts or questions of law, shall be binding upon the parties.

7. The Director-General shall provide the Commission with such assistance and facilitates as it may require. The expenses of the Commission shall be borne by the Organisation.

ANNEX 1

AGREEMENT ESTABLISHING THE EAST CARIBBEAN COMMON MARKET

The Governments of the Signatory States:

Determined to establish the foundation of a closer union among the peoples of the East Caribbean;

Resolved to ensure by common action economic and social development of their countries by eliminating the barriers which divide them;

Affirming as the prerequisite to their efforts the continuing improvement of the living standards and working conditions of their people;

Recognising the need for concerted action in order to guarantee steady expansion, balanced trade, fair competition and equitable distribution of gains;

Convinced that the establishment of a Common Market among the Associated States of the West Indies and the participation of such States in the Caribbean Free

Trade Association will contribute to the rapid growth of these States and to the ultimate creation of a viable economic community of Caribbean countries;

Have agreed as follows: -

Article 1
Common Market

1. A Common Market to be called the East Caribbean Common Market (hereinafter referred to as "the Common Market") is hereby established.

2. The Members of the Common Market (hereinafter referred to as "Member States") shall be the Associated States on behalf of the Governments of which this Agreement is ratified in accordance with Article 24 and such other States as participate therein by virtue of Article 25.

3. For the purposes hereof -

"Associated States" means those territories which have assumed and which maintains a status of association with the United Kingdom in accordance with the West Indies Act 1967, and includes the territories of Saint Vincent and Montserrat;

"State" means any of the Associated States and its dependencies (if any).

4. The Common Market shall operate over the territorial jurisdictions of the Member States (which jurisdictions are hereinafter collectively referred to as "the Market Area").

Article 2
Objectives

The objectives of the Common Market shall be -

(a) to promote in Member States -

(i) harmonious development of economic activities;

(ii) continuous economic expansion;

(iii) fair distribution of benefits derived from the Common Market;

(iv) increased economic stability;

(v) accelerated improvement in the standard of living;

(vi) closer economic relations;

(b) to facilitate the maximum inter-change of goods and services by the progressive approximating of the economic policies of Member States.

Article 3
Principles

To achieve the objectives set out in Article 2, the activities of the Member States shall include under the conditions and timing set out in this Agreement -

(a) the elimination, as between Member States, of customs duties and of quantitative restrictions on the importation and exportation of goods, as

well as of all other measures with equivalent effect;

(b) subject to Article 22, the establishment of common customs tariffs and common commercial policies towards countries and territories, not parties to this Agreement;

(c) the abolition, as between Member States, of the obstacles to the free movement of persons, services and capital;

(d) the progressive harmonisation of investment and development policies, including industrial development, treatment of non-resident business establishments and development planning;

(e) the co-ordination of currency and financial policies;

(f) the progressive harmonisation of taxation policies and incentive legislation in order to promote the equitable distribution of industries among Member States;

(g) a co-operative approach to infra-structural development especially in the fields of transport and communication;

(h) a common policy to agricultural development.

Article 4
Structure of Common Market

The Common Market shall have -

(a) a Council of Ministers;

(b) a Secretariat; and

(c) such other organisations as the Council of Ministers may set up.

Article 5
Import Duties

1. Member States shall not apply any import duties on goods which are eligible for Market Area tariff treatment in accordance with Article 6.

2. For the purposes of this Article the term "import duties" means any tax or surtax of customs and any other charges of equivalent effect - whether fiscal, monetary or exchange which are levied on imports, except duties notified under Article 8 and other charges which fall within that Article.

3. The provisions of this Article do not apply to fees and similar charges in respect of services rendered and nothing in paragraph 2 of this Article shall be construed to exclude from the application of paragraph 1 of this Article any tax or surtax of customs on any product neither the like of which, nor a competitive substitute for which, is produced in the importing Member State, or to extend such application to non-discriminatory internal charges on any such product.

4. For the purposes of paragraph 3 of this Article -

(a) "non-discriminatory" means non-discriminatory as between goods eligible for Market Area tariff treatment as aforesaid and goods not so

eligible;

(b) a charge shall not be deemed other than internal by reason only that it is collected at the time and place of importation.

Article 6
Market Area Origin for Tariff Purposes

1. For the purposes of Article 5 goods shall, subject to Annex A, be accepted as eligible for Market Area tariff treatment if they are consigned from a Member State to a consignee in the importing Member State and if they are of Market Area origin under any one of the following conditions : -

(a) that they have been wholly produced within the Market Area;

(b) that they fall within a description of goods listed in a Process List to be established by decision of the Council of Ministers and have been produced within the Market Area by the appropriate qualifying process described in such List;

(c) that they have been produced within the Market Area and that the value of any materials imported from outside the Market Area or of undetermined origin which have been used at any state of the production of such goods does not exceed 50 per centum of the export price of such goods.

2. For the purposes of sub-paragraphs (a), (b) and (c) of paragraph 1 of this Article, materials listed on the Basic Materials List which forms the Schedule to Annex A, which have been used in the state described in such List in a process of production within the Market Area, shall be deemed to contain no element imported from outside the Market Area.

3. Nothing in this Agreement shall prevent a Member State from accepting as eligible for Market Area tariff treatment any imports consigned from another Member State:

Provided that the like imports consigned from any other Member State are accorded the same treatment.

4. Provisions necessary for the administration and effective application of this Article are contained in Annex A.

5. The Council of Ministers shall from time to time decide to amend the provisions of this Article, Annex A and the Process List established under sub-paragraph (b) of paragraph 1 of this Article.

6. The Council of Ministers shall from time to time examine in what respect this Agreement can be amended in order to ensure the smooth operation of the rules relating to Market Area origin for tariff purposes.

7. Nothing in this Agreement shall require a Member State to accept as eligible for Market Area tariff treatment any imports consigned from another Member State and consisting or, or manufactured from, oils and fats as defined by clause 2 of the Oils and Fats Agreement, or any of such oils or fats where such Member State is a party to the

Oils and Fats Agreement, and such other Member State is not a party to that Agreement, being the Agreement made on 26th January, 19678, between the Governments of Barbados, Dominica, Grenada, Guyana, St. Lucia, St. Vincent and Trinidad and Tobago or any Agreement amending or replacing the same.

Article 7
The Common Customs Tariff

Member States agree to work progressively towards the establishment of a common customs tariff on goods originating in non-member territories and countries. For this purpose Member States shall amend their tariffs applicable to non-member territories and countries to bring them to a mutually agreed level in such time not exceeding three years as the Council of Ministers may, by majority vote, decide.

Article 8
Revenue Duties and Internal Taxation

1. Member States shall not -
   (a) apply directly or indirectly to imported goods any fiscal charges in excess to those applied directly or indirectly to like domestic goods, nor otherwise apply such charges so as to afford effective protection to like domestic goods; or
   (b) apply fiscal charges to imported goods of a kind which they do not produce, or which they do not produce in substantial quantities, in such a way as to afford effective protection to the domestic production of goods of a different kind which are substitutable for the imported goods, which enter into direct competition with them and which do not bear, directly or indirectly, in the country of importation, fiscal charges of equivalent incidence.

2. A Member State shall notify the Council of Ministers of all fiscal charges applied by it where, although the rates of charge, or the conditions governing the imposition of collection of the charge, are not identical in relation to the imported goods, and to the like domestic goods, the Member State applying the charge considers that the charge is, or has been, consistent with sub-paragraph (a) of paragraph 1 of this Article. Each Member State shall, at the request of any other Member State, supply information about the application of paragraph 1 of this Article.

3. For the purposes of this Article -

   "fiscal charges" means revenue duties, internal taxes and other internal charges on goods;

   "revenue duties" means customs duties and other similar charges applied primarily for the purpose of raising revenue; and

   "imported goods" means goods which are accepted as being eligible for Market Area tariff treatment in accordance with Article 6.

Article 9
Export Drawback

Each Member State may refuse to accept as eligible for Market Area tariff treatment goods which benefit from export drawback allowed by Member States in which the goods have undergone the processes of production which forms the basis of the claim to Market Area origin. In applying this paragraph, each Member State shall accord the same treatment to imports consigned from all other Member States.

For the purposes of this Article -

"export drawback" means any arrangement for the refund or remission, wholly or in part, of import duties applicable to imported materials:

Provided that the arrangement, expressly or in effect, allows refund or remission if certain goods or materials are exported, but not if they are retained for home use;

"remission" includes exemption for materials brought into free ports and other places which have similar customs privileges;

"duties" means -

(i) all charges on or in connection with importation, except fiscal charges to which Article 8 applies; and

(ii) any protective element in such fiscal charges;

"materials" includes products, parts and components used in the production of the goods;

"process of production" includes the application of any operation or process, with the exception of any operation or process, which consists solely of one or more of the following:-

(i) packing, wherever the packing materials may have been produced;

(ii) splitting up into lots;

(iii) sorting and grading;

(iv) marking;

(v) putting up into sets.

Article 10
Dumped and Subsidised Imports

1. Nothing in this Agreement shall prevent any Member State from taking action against dumped or subsidised imports consistent with any international obligations to which it is subject.

2. Any products which have been exported from one Member State to a consignee in another Member State and have not undergone any manufacturing process since exportation shall, when reimported into the first Member State, be admitted free of quantitative restrictions and measures with equivalent effect. They shall also be admitted free of customs duties and charges with equivalent effect, except that any allowance by way of drawback relief from duty or otherwise, given by reason of the exportation from the first Member State, may be recovered.

3. If any industry in any Member State is suffering or is threatened with material injury as the result of the importation of dumped or subsidised products into another MemberState, the latter Member State shall, at the request of the former Member State,

examine the possibility of taking, consistent with any international obligations to which it is subject, action to remedy the injury or prevent the threatened injury.

Article 11
Exclusion from this Agreement

1. The provisions of this Agreement shall not affect the rights and obligations under any agreements entered into by or more Member States prior to the coming into force of this Agreement:

Provided however, that Member States shall take any steps at their disposal which are necessary to reconcile the provisions of any such agreements with the basic objectives of this Agreement.

Provided further that, in case of any non-observance of any provision of this Agreement on the part of a Member State pursuant to its exemption in that behalf by virtue of the foregoing provisions of this Article, any other Member State which considers that it would enjoy any benefit under this Agreement but for such exemption only may, if no satisfactory settlement is reached between the Member States concerned, refer the matter to the Council of Ministers, who may, by majority vote, authorise any Member State to suspend as regards the first-mentioned Member State, the application of such obligation under this Agreement as the Council of Ministers considers fit, due regard being had to the report of such committee (if any) as may have been constituted in accordance with Article 21 to examine the matter, and paragraphs 2 and 5 of Article 20 shall apply *mutatis mutandis* in the case of any reference under this proviso as they apply in the case of a reference under paragraph 1 of Article 20.

2. All such agreements shall be registered in such forms and shall be served in such manner as the Council of Ministers may, by majority vote, decide.

3. The Council of Ministers shall annually review the observance by Member States of the first proviso to paragraph 1 of this Article and may from time to time, by majority vote, recommend to any of them the taking of any steps for the purpose of that proviso.

4. For the purposes of this Article "agreements" means any agreements concluded by instruments, or any arrangements made in writing which the Council of Ministers decides, by majority vote, constitute agreements for these purposes.

Article 12
Movement of Persons

1. The Council of Ministers shall keep under review and evaluate the steps (if any) taken by Member States to free the movement of persons within the Common Market.

2. The Council of Minister, having due regard to limitations justified by reason of public order, public safety and public health, shall within a period of three years from

the date of the entry into force of this Agreement submit to Member States proposals for the phased removal of the obstacles to the freedom of movement of persons within the Common Market.

Article 13
Development Policies

1. Each Member State shall work towards the progressive harmonisation of development, investment and industrial policies. This shall involve a common policy towards development planning, industrial development (including fiscal and other incentives to industry), non-resident persons and movement of capital.

2. The common policy towards development planning shall have as its ultimate objective the co-ordination of development plans, as well as, the introduction of special measures for securing the establishment and distribution of industries equitably among Member States, taking into account all relevant factors including the need for the continued and progressive development of each Member State, so as to facilitate complementarity, avoid unnecessary duplication and thereby more expeditiously achieve the basic aims of this Agreement.

3. The common industrial policy shall have as its objectives:

(a) the utilisation as efficiently as possible of the natural and human resources of Member States;

(b) the increase of production and productivity in industry by ensuring the rational development of the units of production due consideration being given to the size of the market;

(c) the encouragement of production among Member States of products which can be economically produced but which are currently imported from outside the Market Area;

(d) ensuring that a fair proportion of the returns to industry accrue to residents of the Member States.

4. To achieve these objectives, Member States agree within a period of three years from the date of the entry into force of this Agreement, to the harmonisation of incentives extended to encourage industrial activity consistent with this Agreement.

5. Member States shall, on the coming into force of this Agreement immediately abolish as between themselves, restrictions on the movement of capital belonging to persons resident therein. Current payments connected with movements of such capital between Member States shall not be subject to any residents.

6. Member States shall, within a period of three years from the date of the entry into force of this Agreement, adopt a common policy towards movement of capital between Member States and elsewhere, and current payments associated with such capital.

Article 14
Monetary Policy

1. Each Member State shall pursue policies aimed at using foreign currencies in

those activities which result in maximum economic benefit to the Member States and encouraging the use of local currencies in all other projects when available. Such policies shall include common treatment of non-resident capital and greater mobilisation of domestic capital for development purposes.

2. The Council of Ministers shall keep under review the monetary and financial situation of individual Member States as well as the general payments system of Member States as a group.

Article 15
Fiscal Policy

Member States agree to the progressive harmonisation of their fiscal policies, especially in the fields of taxation of companies and individuals and fiscal incentives extended to persons engaged in industry, agriculture and tourism.

Article 16
Transport

1. The objectives of this Agreement shall be pursued by Member States within the framework of a common transport policy.

2. With a view to the implementation of this Article, and having regard to the special aspects of transport, Member States shall within three years of the coming into force of this Agreement, lay down common rules governing the operation and development of inter-territorial transport within the Market Area. These rules shall be reviewed by the Council of Ministers from time to time.

3. In the setting of common rules Member States shall ensure that such rules do not discriminate on the basis of origin or destination of goods carried within the Market Area.

4. In setting and reviewing the common rules due account shall be taken of the economic situation of the carriers, and the improvement and expansion of the transport service.

Article 17
Agriculture

1. Member States agree to adopt a common agricultural policy within two years of the coming into force of this Agreement. This policy shall relate to the products of the soil, livestock and fisheries.

2. Member States shall set up a Committee to make recommendations on the formation and implementation of a common agricultural policy. Such policy should include a harmonised approach on such matters as subsidies, price supports and market guarantees. Member States shall keep such policy under constant review.

3. The Committee shall comprise one representative from each Member State, and the services of experts from other appropriate bodies may be co-opted.

Article 18

The Council of Ministers

1. The Council of Ministers shall consist of a representative at ministerial level of each of the Governments of Member States as members and each member shall have one vote.

2. The Council of Ministers shall be the principal organ of the Common Market and shall be responsible for -

(a) exercising such powers and functions as are conferred upon it by this Agreement;

(b) supervising the application of this Agreement and keeping its operation under review;

(c) considering whether further action should be taken by Member States in order to promote the attainment of the objectives of the Common Market and facilitating the establishment of closer links with other countries, unions of countries or international organisations.

3. The powers of the Common Market shall be vested in the Council of Ministers and the Council of Ministers may delegate to the Secretariat such powers as it thinks fit.

4. In exercising its responsibility under paragraph 2 of this Article, the Council of Ministers may take decisions which shall be binding on all Member States and may make recommendations to Member States.

5. Decisions and recommendations of the Council of Ministers shall be made by unanimous vote, except in so far as this Agreement provides otherwise. Decisions or recommendations of the Council of Ministers shall be regarded as unanimous unless any Member State casts a negative vote. A decision or recommendation of the Council of Ministers pursuant to any such provision as aforesaid requires the affirmative votes of not less than two-thirds of all Member States, and reference in any such provision to a majority shall, in relation to the Council of Ministers be construed accordingly.

6. The Council of Ministers may, by its decision to confer authority under this Agreement, impose conditions to which such authority shall be subject.

7. The Council of Ministers shall take decision for the following purposes -

(a) to lay down the Rules of Procedure of the Council of Ministers and of any bodies of the Common market, which may include provision that procedural questions may be decided by majority vote;

(b) to make arrangements for the Secretariat services required by the Common Market;

(c) to establish the financial arrangements necessary for the administrative expenses of the Common Market and the procedure for establishing an annual budget.

8. The expenses of administering the Common Market shall be borne by Member States in equal shares or in such other manner as the Council of Ministers may decide.

Article 19

The Secretariat

1. The Secretariat shall be the principal administrative organ of the Common Market and the Council of Ministers may entrust it, and may set up other organs, committees and bodies and entrust them, with such functions as the Council of Ministers considers necessary to assist it in accomplishing its tasks. Decisions of the Council of Ministers pursuant to this paragraph shall be made by majority vote.

2. In order to ensure the adequate functioning of this Agreement, the Council of Ministers shall establish a Secretariat to administer the Common Market arrangements. Within three months of the coming into force of this Agreement, the Council of Ministers shall approve rules governing the proper functioning of the Secretariat.

3. The functions of the Secretariat shall be as follows :-

(a) servicing all meetings of the Council of Ministers;

(b) collection, collation, analysis and distribution of all information pertinent to the workings of the Common Market;

(c) co-ordinate the work of committees and other bodies established by the Council of Ministers, and service their meetings;

(d) supervise the workings of this Agreement and report to the Council of Ministers all breaches of this Agreement;

(e) report to the Council of Ministers all difficulties as they arise in the administration of this Agreement;

(f) undertake such other functions for the furtherance of this Agreement as may be assigned to it by the Council of Ministers from time to time.

Article 20
General Consultations and Complaints Procedure

1. If any Member State considers that any benefit conferred upon it by this Agreement or any objective of the Common Market is being, or, may be frustrated, and if no satisfactory settlement is reached between the Member States concerned, any of those Member States may refer the matter to the Council of Ministers.

2. The Council of Ministers shall promptly, by majority vote, make arrangements for examining the matter. Such arrangements may include a reference to an examining committee constituted in accordance with Article 21. Before taking action under paragraph 3 of this Article, the Council of Ministers shall so refer the matter at the request of the Member State concerned. Member States shall furnish all information which they can make available and shall lend their assistance to establish the facts.

3. When considering the matter the Council of Ministers shall have regard to whether it has been established that an obligation under this Agreement has not been fulfilled and whether and to what extent any benefit conferred by this agreement or any objective of the Common Market is being or may be frustrated. In the light of this consideration and of the report of any examining committee which may have been appointed, the Council of Ministers may, by majority vote, make to any Member State such recommendations as it considers appropriate.

4. If a Member State does not or is unable to comply with a recommendation made in accordance with paragraph 3 of this Article and the Council of Minister finds, by majority vote, that an obligation under this Agreement has not been fulfilled, the Council of Ministers may, by majority vote, authorise any Member State to suspend as regards the Member State which has not complied with the recommendations the application of such obligations under this Agreement as the Council of Ministers, by majority vote considers appropriate.

5. Any Member State may, at any time while the matter is under consideration, request the Council of Ministers to authorise as a matter of urgency, interim measures to safeguard its position. If it is found by majority vote of the Council of Ministers that the circumstances are sufficiently serious to justify interim action, and without prejudice to any action which it may subsequently take in accordance with the preceding paragraphs of this Article, the Council of Ministers may, by majority vote authorise a Member State to suspend its obligations under this Agreement to such an extent and for such a period as the Council of Ministers, by majority vote considers appropriate.

Article 21
Examining Committee

The examining committee referred to in Article 20 shall consist of persons selected for their competence and integrity, who in the performance of their duties, shall neither seek nor receive instructions from any territory or from any authority or organisation other than the Common Market. They shall be appointed, on such terms and conditions as may be decided, by majority vote of the Council of Ministers.

Article 22
Difficulties in Particular Sectors

1. If, in a Member State -

   (a) an appreciable rise in unemployment in a particular sector of industry or region is caused by a substantial decrease in internal demand for a domestic product; and

   (b) this decrease in demand is due to an increase in imports consigned from other Member States as a result of the progressive reduction or the elimination of duties, charges and quantitative restrictions, that Member State may, notwithstanding any other provisions of this Agreement -

      (i) limit those imports by means of quantitative restrictions to a rate not less than the rate of such imports during any period of twelve months which ended within twelve months of the date on which the restrictions come into force; the restrictions shall not be continued for a period longer than eighteen months, unless the Council of Ministers, by majority vote authorises their continuance for such further period and on such conditions as the Council of Ministers, by majority vote, considers appropriate; and

      (ii) take such measures, either instead of or in addition to restriction of imports in accordance with sub-paragraph (i) of this paragraph, as

the Council of Ministers may, by majority vote, authorise.

2. In applying measures in accordance with paragraph 1 of this Article, a Member State shall give like treatment to imports consigned from all Member States.

3. A Member State applying restrictions in accordance with sub-paragraph (i) of paragraph 1 of this Article shall notify them to the Council of Ministers, if possible before they come into force. The Council of Ministers may at any time consider those restrictions and may, by majority vote, make recommendations designed to moderate any damaging effect of those restrictions or to assist the Member State concerned to overcome its difficulties.

4. This Article shall have effect until 30th April, 1973.

5. Before 1st May, 1973, if the Council of Ministers considers that some provision similar to those in paragraphs 1 to 3 of this Article will be required thereafter, it may decide that such provisions shall have effect for any period after that date.

Article 23
Relations with International Organisations

The Council of Ministers, shall seek to procure the establishment of such relationships with other international organisations as may facilitate the attainment of the objectives of the Common Market.

Article 24
Ratification Required for Effectiveness

1. This Agreement shall be ratified by the Signatory States in accordance with their respective constitutional rules. The instruments of ratification shall be deposited with the Government of Saint Lucia on or before the 28th day of June, 1968. The Government of Saint Lucia shall notify the other Signatory States of such deposit.

2. This Agreement shall come into force on the 1st day of July, 1968.

Article 25
Accession

1. Any territory, thought it be not a signatory hereto, may participate in this Agreement, subject to prior approval of The Council of Ministers of that Territory's participation in this Agreement on terms and conditions decided by the Council of Ministers. The instruments duly signifying the Agreement of the Government of the Territory to its participation in this Agreement on the terms and conditions decided as aforesaid shall be deposited with the Government of Saint Lucia which shall notify all other Member States. This Agreement shall have effect in relation to such Territory, as, and from the time indicated in the decision of the Council of Ministers.

2. The Council of Ministers may pursuant to any decision thereof in that behalf seek to procure the creation of an association consisting of Member States and any other state, union of territories, or international organisations and embodying such reciprocal rights and obligations, common actions, and special procedures as may be appropriate.

Article 26
Withdrawal

Any Member State may withdraw from participation in this Agreement provided that the Government thereof gives twelve months notice in writing to the Government of Saint Lucia which shall notify the other Member States.

Article 27
Amendment

Except where provision for modification is made elsewhere in this Agreement, an amendment tot he provisions of the Agreement shall be submitted to the Governments of Member States for acceptance if it is approved by decision of the Council of Ministers, and it shall have effect provided it is accepted by all such Governments. Instruments of acceptance shall be deposited with the Government of Saint Lucia which shall notify the other Member States.

Article 28
Annex

The annex to this Agreement is an integral part of this Agreement.

Article 29
Legal Capacity, Privileges and Immunities

1. The legal capacity, privileges and immunities to be recognised and granted by the Member States in connection with the Common Market shall be laid down in a Protocol to this Agreement.

2. The Council of Ministers, acting on behalf of the Common Market, may conclude with the Government of the State in which the headquarters will be situated an agreement relating to the legal capacity and the privileges and immunities to be recognised and granted in connection with the Common Market.

IN WITNESS WHEREOF the undersigned duly authorised thereto by their respective Governments, have signed this Agreement.

Done in single copy at Grenada this 11th day of June, 1968

ANNEX A

RULES REGARDING MARKET AREA ORIGIN FOR TARIFF PURPOSES

For the purpose of determining the origin of goods under Article 6 and for the application of that Article, the following Rules shall be applied.

Rule 1
Interpretative Provisions

1. In determining the place of production of marine products and goods produced therefrom, a vessel of a Member State shall be regarded as part of that State. In determining the place from which goods have been consigned, marine products taken from the sea or goods produced thereform at sea shall be regarded as having been consigned from a Member State if they were taken by or produced in a vessel of a Member State and have been brought direct to the Market Area.

2. A vessel which is registered shall be regarded as a vessel of the Member State in which it is registered.

3. "Materials" includes products, parts and components used in the production of the goods.

4. Energy, fuel, plant, machinery and tools used in the production of goods within the Market Area, and materials used in the maintenance of such plant, machinery and tools, shall be regarded as wholly produced within the Market Area when determining the origin of those goods.

5. "Produced" in sub-paragraph (c) of paragraph 1 of Article 6 and a "process of production" in paragraph 2 of that Article include the application of any operation or process, with the exception of any operation or process which consists only of one or more of the following:-

(a) packing, wherever the packing materials may have been produced;

(b) splitting up into lots;

(c) sorting and grading;

(d) marking;

(e) putting up into sets.

6. The term "producer" includes a grower and a manufacturer and also a person who supplies his goods otherwise than by sale to another person and to whose order the last process in the course of the manufacture of the goods is applied by that other person.

Rule 2
Goods Wholly Produced Within the Market Area

For the purposes of sub-paragraph (a) of paragraph 1 of Article 6, the following are among the products which shall be regarded as wholly produced within the Market Area: -

(a) mineral products extracted from the ground within the Market Area;

(b) vegetable products harvested within the Market Area;

(c) live animals born and raised within the Market Area;

(d) products obtained within the Market Area from live animals;

(e) products obtained by hunting or fishing conducted within the Market Area;

(f) marine products taken from the sea by a vessel of a Member State;

(g) used articles fit only for the recovery of materials, provided that they have been collected from users within the Market Area;

(h) scrap and waste resulting from manufacturing operations within the Market Area;

(i) goods produced within the Market Area exclusively from one or both of the following: -

(1) products within sub-paragraphs (a) to (h);

(2) materials containing no element imported from outside the Market Area or of undetermined origin.

Rule 3
Application of Percentage Criterion

For the purposes of sub-paragraph (c) of paragraph 1 of Article 6 -

(a) any materials which meet the conditions specified in sub-paragraph (a) or (b) of paragraph 1 of that Article shall be regarded as containing no element imported from outside the Market Area;

(b) the value of any materials which can be identified as having been imported from outside the Market Area shall be their C.I.F. value accepted by the customs authorities on clearance for home use, or on temporary admission, at the time of last importation into the Member State where they were used in a process of production, less the amount of any transport costs incurred in transit through other Member States;

(c) if the value of any materials imported from outside the Market Area cannot be determined in accordance with sub-paragraph (b) of this Rule, their value shall be the earliest ascertainable price paid for them in the Member State where they were used in a process production;

(d) if the origin of any materials cannot be determined, such materials shall be deemed to have been imported from outside the Market Area and their value shall be the earliest ascertainable price paid for them in the Member State where they were used in a process production;

(e) the export price of the goods shall be the price paid or payable for them to the exporter in the Member State where the goods were produced, that price being adjusted, where necessary, to an f.o.b. basis in that Member State;

(f) the value under sub-paragraphs (b), (c), or (d) or the export price under sub-paragraph (e)of this Rule may be adjusted to correspond with the amount which would have been obtained on a sale in the open market between buyer and seller independent of each other. This amount shall also be taken to be the export price when the goods are not the subject of a sale.

Rule 4
Unit of Qualification

1. Each article in a consignment shall be considered separately.

2. For the purposes of paragraph 1 of this Rule -

   (a) where the original Standard International Trade Classification specifies that a group, set or assembly of articles is to be classified within a single item, such a group, set or assembly shall be treated as one article;

   (b) tools, parts and accessories which are imported with an article, and the price of which is included in that of the article or for which no separate charge is made, shall be considered as forming a whole with the article, provided that they constitute the standard equipment customarily included on the sale of articles of that kind;

   (c) in cases not within sub-paragraphs (a) and (b), goods shall be treated as a single article if they are so treated for the purposes of assessing customs duties by the importing Member State.

3. An unassembled or disassembled article which is imported in more than one consignment because it is not feasible for transport or production reasons to import it in a single consignment shall, if the importer so requests, be treated as one article.

Rule 5
Segregation of Materials

1. For those products or industries where it would be impracticable for the producer physically to segregate materials of similar character but different origin used in the production of goods, such segregation may be replaced by an appropriate accounting system, which ensures that no more goods received Market Area tariff treatment than would have been the case if the producer had been able physically to segregate the materials.

2. Any such accounting system shall conform to such conditions as may be agreed upon by Member States concerned in order to ensure that adequate control measures will be applied.

Rule 6
Treatment of Mixtures

1. In the case of mixtures, not being groups, sets or assemblies of separate articles dealt with under Rule 4, a Member State may refuse to accept as being of Market Area origin any product resulting from the mixing together of goods which would qualify as being of Market Area origin with goods which would not so qualify, if the characteristics of the products as a whole are not essentially different from the characteristics of the goods which have been mixed.

2. In the case of particular products where it is, however, recognised by Member States concerned to be desirable to permit mixing of the kind described in the foregoing

paragraph, such products shall be accepted as of Market Area origin in respect of such part thereof as may be shown to correspond to the quantity of goods of Market Area origin used in the mixing, subject to such conditions as may be agreed upon.

Rule 7
Treatment of Packing

1. Where for the purposes of assessing customs duties a Member State treats goods separately from their packing, it may also, in respect of its imports consigned from another Member State, determine separately the origin of such packing.

2. Where paragraph 1 of this Rule is not applied, packing shall be considered as forming a whole with the goods and no part of any packing required for their transport or storage shall be considered as having been imported from outside the Market Area, when determining the origin of the goods as a whole.

3. For the purpose of paragraph 2 of this Rule, packing with which goods are ordinarily sold by retail shall not be regarded as packing required for the transport or storage of the goods.

Rule 8
Documentary Evidence

1. A claim that goods shall be accepted as eligible for Market Area tariff treatment shall be supported by appropriate documentary evidence of origin and consignment. The evidence of origin shall consist of either -

(a) a declaration of origin completed by the last producer of the goods within the Market Area, together with a supplementary declaration completed by the exporter in cases where the producer is not himself or by his agent the exporter of the goods; or

(b) a certificate given by a governmental authority or authorised body nominated by the exporting Member State and notified to the other Member States together with a supplementary declaration completed by the exporter of the goods.

These declarations, certificates and supplementary declarations shall be in such form as may be agreed by the Governments of all the Signatory States, and a copy of such Agreement shall be deposited with the Government of Saint Lucia by which certified copies shall be transmitted to all other signatory and participating States. The agreed forms shall, for the purposes of paragraph 5 of Article 6 be deemed to form part of this Annex.

2. The exporter may choose either of the forms of evidence referred to in paragraph 1 of this Rule. Nevertheless the authorities of the country of exportation may require for certain categories of goods and evidence of origin shall be furnished in the form indicated in sub-paragraph (b) of that paragraph.

3. In cases where a certificate of origin is to be supplied by a governmental authority or an authorised body under sub-paragraph (b) of paragraph (1) of this Rule, that authority

or body shall obtain a declaration as to the origin of the goods given by the last producer of the goods within the Market Area. The governmental authority or the authorised body shall satisfy themselves as to the accuracy of the evidence provided: where necessary they shall require the production of additional information, and shall carry out any suitable check. If the authorities of the importing Member State so require, a confidential indication of the producer of the goods shall be given.

4. Nominations of authorised bodies for the purpose of sub-paragraph (b) of paragraph 1 of this Rule, may be withdrawn by the exporting Member State if the need arises. Each Member State shall retain, in regard its imports, the right of refusing to accept certificates from any authorised body which is shown to have repeatedly issued certificates in an improper manner, but such action shall not be taken without adequate prior notifications to the Exporting Member State of the grounds for dissatisfaction.

5. In cases where the Member States concerned recognise that it is impracticable for the producer to make the declaration of origin specified in sub-paragraph (a) or paragraph 1 or in paragraph 3 of this Rule, the exporter may make that declaration in such form as those Member States may for the purpose specify.

6. The Council of Ministers may decide that further or different provisions concerning evidence of origin or of consignment shall apply to particular categories of goods or classes of transactions.

Rule 9
Verification of Evidence of Origin

1. The importing Member State may as necessary require further evidence to support any declaration or certificate of origin furnished under Rule 8.

2. The importing Member State shall not prevent the importer from taking delivery of the goods solely on the grounds that it requires such further evidence, but may require security for any duty or other charge which may be payable.

3. Where, under paragraph 1 of this Rule, a Member State has required further evidence to be furnished, those concerned in another Member State shall be free to produce it to a governmental authority or an authorised body of the latter State, who shall, after thorough verification of the evidence, furnish an appropriate report to the importing Member State.

4. Where it is necessary to do so by reason of its legislation, a Member State may prescribe that requests by the authorities of importing Member States for further evidence from those concerned in the Member State shall be addressed to a specified governmental authority, who shall after thorough verification of the evidence furnish an appropriate report to the importing Member State.

5. If the importing Member State wishes an investigation to be made into the accuracy of the evidence which it has received, it may make a request to that effect to the other Member state or States concerned.

Rule 10
Sanctions

1. Member States undertake to introduce legislation, making such provision as may be necessary for penalties against persons who, in their territory, furnish or cause to be furnished a document which is untrue in a material particular in support of a claim in another Member State that goods should be accepted as eligible for Market area tariff treatment. The penalties applicable shall be similar to those applicable in cases of untrue declarations in regard to payment of duty on imports.

2. A Member State may deal with the offence out of court, if it can be more appropriately dealt with by a compromise penalty or similar administrative procedure.

3. A Member State shall be under no obligation to institute or continue court proceeding, or action under paragraph 2 of this Rule -

(a) if it has not been requested to do so by the importing Member State to which the untrue claim was made; or

(b) if, on the evidence available, the proceedings would not be justified.

SCHEDULE

BASIC MATERIALS LIST

These materials may always be regarded as originating wholly within the "Association Area", or, as the case may be when used in the state described in this list in a process of production within the "Common Market Area".

Note: The classification used in this List is in accordance with the original Standard International Trade Classification

041-01	Wheat and spelt (including meslin) unmilled
043-01	Barley unmilled
045-01	Rye unmilled
045-02	Oats unmilled
045-09	Cereals unmilled (except rice and corn)
046-01	Semolina
048-02	Malt
051-04	Apples
051-05	Grapes
054-01	Potatoes (except sweet)
054-03	Hop Cones fresh or dried
061-09	Lactose, glucose, maltose, caramel
072-01	Cocoa beans (except flavoured cocoa)
075-01	Pepper (except sweet pepper, unground) and Pimento whether unground, ground or otherwise prepared
075-02	Spices other than ginger, cinnamon, nutmeg and mace

221-05	Linseed
231-02	Synthetic rubbers and rubber substitutes
244-01	Cork, raw and waste (including natural cork in blocks and sheets)
261	Silk
262	Wool and other animal hair
264	Jute, including jute cuttings and waste
265	Vegetable fibres except cotton, jute and coir fibre
272-06	Sulphur
272-16	Natural graphite
284-01	Non-ferrous metal scrap
Ex 291-09	Sponges, fish eggs (not for food) bristles, hair and their waste
292-02	Natural gums, resins, balsam and lacs
292-09	Kapok
Ex 312-01	Crude Petroleum
411-01	Oils from fish and marine animals
411-02	Animal oils, fats and grease (excluding lard)
412-01	Linseed oil
412-11	Castor oil
413-02	Hydrogenated oils and fats
413-04	Waxes of animal or vegetable origin
Ex 511-09	Calcium carbide, sodium pyrophosphate and white lead
531-01	Coal tar, dyestuffs and natural indigo
532-01	Dyeing extracts
532-02	Tanning extracts
532-03	Synthetic tanning materials
551-01	Essential vegetable oils (except lime, bay, pimento, nutmet and orange oils)
599-01	Synthetic plastic materials in blocks, sheets, rods, tubes, power and other primary forms
599-04	Casein, albumen, gelatin, glue
611	Leather with the exception of sole leather
651	Textile yarn and thread
652	Cotton Fabrics
653	Textile fabrics, other than cotton fabrics
Ex 655-06	Twine of cotton
Ex 655-06	Twine of hemp
671-01	Silver, unworked and partly worked
671-02	Platinum and other metal of platinum group, unworked and partly worked
672-03	Pearls unworked
681-01	Pig iron and sponge iron (including iron and steel powder)
681-02	Ferro-alloys
681-03	Ingots, blooms, stabs, billets, sheet bars and tin-plate bars

	of iron steel and equivalent primary forms
681-04	Iron and steel bars
681-05	Universals, plates and sheets of iron and steel, uncoated
681-06	Hoop and strip of iron and steel (including tube strips and steel strip for springs) coated or not
681-13	Steel tubes and fittings, welded or drawn
681-14	Pipes and fittings, cast whether gray iron r malleable iron
682-01	Copper and alloys not refined and refined unwrought
682-02	Copper and alloys of copper, worked (bars, rods, plates, sheets, wire, pipes, tubes, casting and forgings)
683-01	Nickle and nickle alloys unwrought
683-02	Nickle and nickle alloys, worked (bars, rods, plates, sheets, wire, pipes, tubes, casting and forgings)
684-01	Aluminium and aluminium alloys unwrought
684-02	Aluminium and aluminium alloys worked (bars, rods, plates, sheets, wire, pipes, tubes, casting and forgings)
685-01	Lead and lead alloys unwrought
685-02	Lead and lead alloys, worked (bars, rods, plates, sheets, wire, pipes, tubes, casting and forgings)
689-01	Non-ferrous base metals employed in metallurgy and their alloys, n.e.s. unwrought
689-02	Non-ferrous base metals employed in metallurgy and their alloys, n.e.s. worked (bars, rods, plates, sheets, wire, pipes, tubes, casting and forgings)
Ex 699-05	Expanded metal of iron and steel
Ex 699-06	Expanded metal of aluminium, copper and other non-ferrous base metals
899-05	Buttons and studs of all materials, except those of precious metals and precious stones

ANNEX II

AMENDMENT TO THE EAST CARIBBEAN COMMON MARKET AGREEMENT

MARKET AREA ORIGIN FOR TARIFF PURPOSES

The Governments of the Signatory States

Have agreed:

To amend Article 6-1, (c) of the East Caribbean Common Market Agreement by

deleting the figure 50 and substituting therefor the figure 60 to read as follows:

> that they have been produced within the Market area and that the value of any materials imported from outside the Market Area or of undetermined origin which have been used at any stage of the production of such goods does not exceed 60 per centum of the export price of such goods.

(Done in 1975)

ANNEX III

THE EAST CARIBBEAN COMMON MARKET (AMENDMENT) AGREEMENT 1981

The Governments of the Signatory States:

Recognising the constitutional changes that have taken place in some of the Member Territories since the signing of the Agreement establishing the East Caribbean Common Market in 1968;

Desiring that the said Agreement should be amended to reflect these constitutional changes:

Have agreed as follows: -

1. To amend the Agreement establishing the East Caribbean Common Market the said amendment to be called the East Caribbean Common Market (Amendment) Agreement, 1981.

2. Amendment of Article 1 of the Agreement.

Article 1 of the Agreement is amended by repealing paragraphs 2 and 3 and substituting therefor the following: -

> 2. The Members of the Common Market (hereinafter referred to as "Member Territories") shall be the Territories on behalf of the Governments of which this Agreement is ratified in accordance with Article 24 and such other Territories as participate therein by virtue of Article 25.
>
> 3. For the purposes hereof:-
>
> "Member Territories" means Antigua, Dominica, Grenada, Montserrat, St. Kitts-Nevis, Saint Lucia and Saint Vincent and the Grenadines.

3. Amendment of the Agreement.

The agreement is amended by deleting the words "Member State" wherever they occur in the text and substituting therefor the words "Member Territory".

4. This amending Agreement shall be ratified by the Member Territories in accordance with their respective constitutional processes. Such instruments of ratification shall be deposited with the Government of Saint Lucia on or before the First day of October, 1981. This Agreement shall come into force on the Fifth day of October, 1981.

5. For the purposes of this amending Agreement the words "Member Territories" shall have the same meaning as that contained in the foregoing amendment.

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THE EASTERN CARIBBEAN CENTRAL BANK

As part of a programme to put the fragile economies of the dependent Commonwealth Caribbean countries on a stable, sustainable economic footing, the West Indies (Associated States) Council of Ministers was established in 1966 to further regional cooperation in economic and other areas. This was followed in 1968 by the conclusion of the Agreement Establishing the East Caribbean Common Market which was fashioned on the Dickenson Bay Agreement of 1965 establishing the Caribbean Free Trade Association. In 1981, the Treaty Establishing the Organisation of Eastern Caribbean States was signed and this organisation absorbed the East Caribbean Common Market whose stated principles were the coordination of currency and financial policies. Indeed, one of the functions of the Organisation of Eastern Caribbean States (OECS) was to coordinate, harmonise and pursue joint policies, particularly as they related to currency and central banking. In this context it is important to note that for a considerable period prior to the establishment of the OECS there had been a significant degree of currency and financial policy harmonisation among this group of political entities with the establishment of the Eastern Caribbean Currency Authority created under the East Caribbean Currency Agreement of 1965. The East Caribbean Currency Authority was succeeded by the Eastern Caribbean Central Bank in 1983 which acquired the assets of the former and assumed its rights and liabilities.

The management of the Bank is controlled by the Monetary Council which is the highest decision-making body. The Council consists of one Minister each appointed by the Participating Governments and each Minister so appointed is required to designate an alternate to serve in his stead on the Council in his absence. Decisions of the Council are required to be communicated to the Bank in writing and are binding on the Bank while they remain in effect. The powers of the Bank are vested in the Board of Directors which, subject to the authority of the Monetary Council, is tasked with the policy and general administration of the Bank. The Board consists of nine Directors, including the Governor of the Bank, the Deputy Governor and one Director appointed by each Participating Government. The Governor has power to act, contract and sign instruments and documents on behalf of the Bank.

The monetary unit of the Participating Governments is the Eastern Caribbean dollar divided into one hundred cents with such external value as may be declared from time to time by the Bank. The Bank is required, on a unanimous recommendation of the Board of Governors and approved by a unanimous decision of the Monetary Council, to declare the external value of the Eastern Caribbean dollar, subject to any obligations assumed by a Participating Government in accordance with the provisions of the Articles

of Agreement of the International Monetary Fund and any external value for the East Caribbean dollar which might have been fixed by the predecessor East Caribbean Currency Authority and remains in force. Participating Governments adversely affected by a change in currency values are entitled to compensation on an agreed basis. The Bank has the sole right to issue currency notes and coins in the jurisdictions of participating Governments and both shall be legal tender in accordance with the applicable provisions of the Agreement Establishing the OECS.

The Bank is required to establish and maintain an external reserve in an amount not less than 60 per cent of the value of currency issued or deemed to be issued by the Bank and in circulation together with other demand liabilities. Such an external reserve should consist of all or any of the following, that is, gold, foreign exchange in the form of currency or bank balances held abroad, any internationally recognised reserve assets, bills of exchange or promissory notes denominated in foreign currency and payable outside the territories of Participating Governments and treasury bills issued by foreign governments. The Bank is also the depository of the external assets of Participating Governments and may buy, sell or deal in gold or bullion or foreign exchange, open and maintain accounts abroad and from time to time determine the rates at which it buys, sells or deals in gold and foreign currencies. The Bank may also open accounts for and accept deposits for financial institutions conducting business in the Participating Governments on such terms and conditions it may determine.

Subject to the approval of the Monetary Council, the Bank may administer or participate in schemes for the purpose of issuing bank deposits, providing export credit insurance and guarantees and providing guarantees for credit extended by financial institutions. Subject to the Agreement, the Bank may with the approval of the Monetary Council, subscribe to, hold or sell shares of corporations organised with the approval or under the Authority of Participating Governments for any of the purposes specified above. The Bank enjoys in the territories of Participating Governments privileges and immunities required for it to perform its functions, including for its property and assets immunity from every form of judicial process unless it waives such immunity. Similarly, to the extent necessary to carry out the provisions of the Agreement, the property and assets of the Bank are free from restrictions, regulations, controls and moratoria of any nature. The Bank, its property, assets, income and business are immune from taxation and customs duties in respect of goods acquired by, or services rendered to it for its own use. Similarly, the salaries and emoluments of the Governor, Deputy Governor, Directors and officials of the Bank are exempt from taxation.

Participating Governments may withdraw from the Bank after written notice in that behalf simultaneously to the Chairman of the Monetary Council and to the Bank and subject to all direct and contingent obligations to the Bank incurred up to the date of withdrawal. The Monetary Council may by a resolution adopted by two-thirds of the members terminate the operation of the Bank.

AGREEMENT ESTABLISHING THE EASTERN CARIBBEAN CENTRAL BANK

AN AGREEMENT made on the 5th day of July, 1983 between the Governments of Antigua and Barbuda, the Commonwealth of Dominica, Grenada, Montserrat, Saint Christopher and Nevis, Saint Lucia and Saint Vincent and the Grenadines (hereinafter referred to as "the Participating Governments").

WHEREAS it is desired to maintain a common currency and to establish a Common Central Bank with powers to issue and manage that currency, to safeguard its international value, to promote monetary stability and a sound financial structure and to further the economic development of territories of the Participating Governments.

It is hereby agreed as follows:

PART I - PRELIMINARY

1. This Agreement may be cited as the Eastern Caribbean Central Bank Agreement, 1983.

2. In this Agreement, unless the context otherwise requires:

"Authority" means the East Caribbean Currency Authority established under the East Caribbean Currency Agreement 1965;

"appointed Directors" means the Directors other than the Governor and Deputy Governor;

"Bank" means the Eastern Caribbean Central Bank established under Article 3 of this Agreement;

"bank" means any financial institution whose operations include the acceptance of deposits subject to transfer by the depositor by cheque or other means of payment transfer:

(i) the business of receiving funds through the acceptance of money deposits payable on demand or after a fixed period or after notice or any similar operation through the frequent sale or placement of bonds, certificates, notes or other securities, and the use of such funds either in whole or in part for loans or investment for the account and at the risk of the person doing such business; and

(ii) any other activity recognised by the Bank as customary banking practice which a financial institution engaging in the activities described in (i) hereof may additionally be authorised to do;

"Board" means the Board of Directors of the Bank;

"Council" means the Monetary Council established under Article 7 of this Agreement;

"financial institution" means any person doing banking business:

Provided that for the purpose of this Agreement unless the context otherwise requires, all offices and branches of a financial institution in the territories of the Participating Governments shall be deemed to one financial institution;

"person" includes any corporation, either aggregate or sole, and any undertaking, club, society, association or other body of one or more persons.

PART II - ESTABLISHMENT OF BANK

3. (1) There shall be established a body to be known as the East Caribbean Central Bank to do business in accordance with the provisions of this Agreement. The establishment of the Bank shall take effect in accordance with the provisions of Article 54 paragraph (2) of this Agreement and on the date thereof all assets and liabilities of the Authority, together with all its rights and obligations that are not inconsistent with the provisions of this Agreement, shall be deemed to have been transferred to and to vest in the Bank.

(2) The Bank shall be a body corporate having perpetual succession and a common seal and shall have power to -

(a) enter into contracts and incur obligations;

(b) sue and, subject to Article 50 paragraph 2 of this Agreement, be sued in its own name;

(c) acquire, hold, mortgage and dispose of property, whether moveable or immoveable;

(d) borrow funds in territories of the Participating Governments or elsewhere, issuing such evidences of indebtedness as may be appropriate;

(e) regulate banking business on behalf of and in collaboration with Participating Governments;

(f) exercise all powers specifically granted by the provisions of this Agreement to the Bank, and do all such things as shall be necessary to carry out the powers so granted.

4. The purposes of the Bank are:

(1) to regulate the availability of money and credit.

(2) To promote and maintain monetary stability.

(3) To promote credit and exchange conditions and a sound financial structure conducive to the balanced growth and development of the economies of the territories of the Participating Governments.

5. The Bank shall have its principal office in one of the territories of the Participating Governments as the Council may determine and may establish such branch offices and may appoint such agents and correspondents as may be required.

PART III - GENERAL RESERVES AND PROFITS

6. (1) The Bank shall establish and maintain a General Reserve to which shall be allocated any amount that may become available through the operation of paragraph (3) of this Article.

(2) The Bank shall determine its net profits for each financial year after meeting all current expenditure for that year and after making such provisions as it thinks fit including, but not limited to bad and doubtful debts, depreciation of assets, contributions to staff and superannuation funds; and with the approval of Council for all other contingencies and such other purposes as The Board considers necessary: Provided that unrealised appreciation of assets shall not be taken into account in the determination of net profits.

(3) If and so long as the General Reserve is less than ten per cent of the Bank's demand liabilities at the end of a financial year in which net profits were earned the Bank shall allocate to the General Reserve one half of such net profits or such smaller amount as will make that reserve equal to ten per cent of those liabilities; Provided however that with the written agreement of each of the Participating Governments further allocation may be made to increase the General Reserve beyond ten per cent of the Bank's demand liabilities.

(4) After allocations have been made to the General Reserve in accordance with the provisions of paragraph (3) of this Article and after any allocation with Article 24 (6), 29, and 42 (4) of this Agreement any net profits remaining referred to in Annex 1 to this Agreement as the distributable profits of the Bank, shall be paid to the Participating Governments in accordance with the formula for profit-sharing provided for in the said Annex I to this Agreement.

(5) Any change in the formula for profit-distribution under paragraph (4) of this Article shall apply only after each Participating Government gives its approval thereto in writing to the Bank.

PART IV - ADMINISTRATION AND MANAGEMENT

7. (1) There shall be established a Monetary Council which shall consist of one Minister appointed by each Participating Government in such manner as it may determine. Each such Minister shall designate an Alternate to serve on the Council in his absence.

(2) The Council shall meet not less than twice each year to receive from the Governor the Bank's report on monetary and credit conditions and to provide directives and guidelines on matters of monetary and credit policy

to the Bank and for such other purposes as are prescribed under this Agreement.

(3) The Council shall establish its own procedures and shall elect one of the Ministers to serve as Chairman. The term of the Chairman shall be one year. In addition to his power to vote, he shall have a casting vote in the event of a tie.

(4) In addition to its regular meetings, the Council may hold such additional meetings as it may decide or when requested by at least two of its members.

(5) A quorum of the council shall consist of five members and decisions shall be taken by a simple majority of votes of the members present except as otherwise prescribed under this Agreement.

(6) Decisions of the Council on matters of monetary and credit policy under paragraph (2) shall be communicated in writing to the Bank and such decisions shall be binding on the Bank while they remain in effect.

(7) Whenever, in the judgement of the Board, there arises a situation where any action contemplated by the Bank requiring the approval of the Council, which action should not be postponed until the next meeting of the Council, the Board shall request the Council members to vote without meeting. The Board shall present to each Council member by rapid means of communication a motion embodying the proposed action. At the expiration of the period prescribed for voting, the Board shall record the results, and the Governor shall notifying all members. Decisions by this method shall be arrived at by a simple majority of all the members of the Council.

8. (1) The powers of the Bank shall be vested in a Board of Directors, which subject to Article 7, shall be responsible for the policy and general administration of the Bank.

(2) The Board shall have power to make, alter or revoke regulations, notices and orders for the purpose of giving effect to the provisions of this Agreement.

(3) The Board shall consist of nine Directors comprising the Governor, the Deputy Governor and one Director appointed by each Participating Government.

(4) (a) The seal of the Bank shall be kept in the custody of the Governor or the Deputy Governor and shall be authenticated by the Governor or Deputy Governor and one other Director authorised by the Board to act in that behalf;

(b) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the Governor or the Deputy Governor.

9. (1) The appointed Directors shall be persons of recognised standing and experience in one or more of the following areas:

(a) Fiscal and Monetary Policy
(b) Finance and Accounting
(c) Banking
(d) Economics
(e) Law, or
(f) Other related fields

appointed by the Council on the recommendations of each of its members in manner so that each of the Participating governments shall be represented among the Directors on the Board. In exercising his powers each appointed Director shall consider the interests of all the territories subject to the jurisdiction of this Agreement.

(2) The appointed Directors shall be appointed for terms not exceeding three years and shall be eligible for re-appointment.

(3) The Governor and the Deputy governor shall be appointed by the Council for a period of not exceeding five years and they shall be eligible for re-appointment.

(4) The Governor shall -

(a) preside as chairman at the meeting of the Board;

(b) serve as chief executive officer of the Bank to be in charge of and responsible to the Board for the implementation of the policy and the day to day management of the Bank;

(c) attend all meeting of the Council.

(5) The governor shall have power to act, contract and sign instruments and documents on behalf of the Bank. He may pursuant to resolutions of and to the extent deemed appropriate by the Board, delegate such powers to other officers.

(6) The composition of the first Board of the Bank shall, for the purpose of ensuring continuity, include all persons serving as directors of the Authority on the day immediately prior to the date on which the Bank is deemed to have been established in accordance with Article 54 paragraph (2) of the Agreement as well as the person then serving as the Deputy Managing Director of the Authority:

Provided that -

(a) the persons then serving as Managing Director and Deputy managing Director of the Authority shall serve respectively as Governor and Deputy Governor of the Bank;

(b) (i) the term of each member of the first Board of the Bank except the Governor and the Deputy Governor shall expire six months after the establishment of the Bank;

(ii) the term of the Governor and Deputy Governor shall expire one year after the establishment of the Bank;

(c) All members of the first Board of the Bank shall be eligible for re-appointment.

10. (1) During the absence or disability of the Governor or during any vacancy in the office of the Governor, the Deputy Governor shall exercise the powers and duties of that office. The Board shall make provision for the simultaneous absence or disability of the Governor and the Deputy Governor.

(2) The Governor and the Deputy Governor shall devote the whole of their professional time to the service of the Bank and while holding office shall not without the prior approval of the Board engage in any business, profession or employment, whether remunerated or not, but they may -

(a) act as members of any board or commission appointed by the Council;

(b) become governors, alternate governors, directors or members or any organ, by whatever name called, of any international financial institution, established under any agreement or convention to which one or more of the Participating Government shall have adhered or given support or approval;

(c) become members of the board of any corporation organised by one or more of the Participating Governments for the purpose of insuring deposits in financial institutions.

(3) The Governor and the Deputy Governor shall not receive any salary or contribution to, or supplementation thereof from any source other than the Bank without the approval of the Council.

(4) The Directors shall be paid such remuneration as shall be determined by the Board with the approval of the Council. The Board shall have power to determine allowances to be paid to Directors.

11. (1) No person shall be appointed or shall remain Governor, Deputy Governor or appointed Director of the Bank who is or becomes:

(a) Director, officer or employee of any financial institution within or without the territories of Participating Governments: Provided that Directors of wholly-owned Government Institutions may serve as Directors;

(b) member of the legislature (by whatsoever name called) of a Participating Government.

(2) The Governor, the Deputy Governor or any appointed Director may resign his office by giving notice in writing to the Council.

(3) The Governor, the Deputy Governor or any appointed Director shall be removed from his office by the Council upon:

(a) a finding by two-thirds of all of the members of the Board of permanent incapacity or serious neglect of, or misconduct in, office; or

(b) on conviction for an offence involving dishonesty or fraud or that is punishable with imprisonment for twelve months or more or a

conviction for an offence contrary to Article 15 or 16 of this Agreement; or

(c) his becoming bankrupt or compounding with or suspending payment to his creditors.

(4) Any appointed Director may be removed from the Board by the Council acting on the recommendation of the Participating Government of the territory from which he was appointed.

12. (1) If the Governor, Deputy Governor or any appointed Director dies or resigns or otherwise vacates his office before the expiry of the term for which he has been appointed, as soon thereafter as may be practicable the Council shall appoint another to serve for the unexpired period in the manner specified in Article 9 of this Agreement.

(2) Notwithstanding the provisions of Article 11 paragraph (3) of this Agreement the Council, on the finding of the Board of the continuing absence or incapacity of a Director other than the Governor, may on the recommendation of the Participating Government whose recommendation had led to his appointment, or its own initiative in the event that the finding is in respect of the Deputy Governor, appoint another person to serve until the expiry of the term or a finding by the Board that such state has ceased.

13. (1) The Board shall meet as often as the business of the Bank may require but not less than once every three calendar months. The Board may provide for regular meetings for which two weeks' notice shall be necessary; special meetings shall be convened at the written request of the Governor or of any three appointed Directors for which reasonable notice shall be required.

(2) For the purpose of voting at a Board meeting, each member of the Board, except the Governor and the Deputy Governor shall have one vote. The Governor and the Deputy Governor shall not vote. In the event of an equal division, the Chairman shall have a casting vote.

(3) A quorum at any meeting of the Board shall consist of five appointed Directors and decisions shall be taken by a simple majority of votes except as herein otherwise provided.

(4) Where a matter relating to a Participating Government is to be determined by the Board the Government concerned shall have the right, if it so desires, to send a representative to that meeting of the Board with a view to assisting the Board in making an informed judgement on the matter. The representative shall not, however, have the right to vote, and shall be present only for the specific item for which, in the opinion of the Board, his presence was required.

14. (1) All appointments of officers and employees of the Bank shall be on such terms and conditions as shall be prescribed by the Board.

(2) The Governor and Deputy Governor shall be paid such salary and allowances as may be approved by the Council.

15. (1) The Governor, the Deputy Governor and each appointed Director shall not act as a representative of any commercial, financial, agricultural, industrial or other (private) interest: and neither they nor any other officer or employee of the Bank shall receive or accept directions from any such interest in respect of duties to be performed under this Agreement.

(2) Every Director shall fully disclose to the Board any (private) interest, industrial or otherwise, which he may directly or indirectly hold or be connected with and which becomes the subject of Board action, and shall refrain from voting on any matter related thereto: Provided that such an interest, if so disclosed shall not disqualify the interested party for the purpose of constituting a quorum.

(3) No Director, officer or employee of the Bank in his official capacity shall accept any gift or advantage for himself or for any person with whom he may have family, business or financial connections.

16. (1) The Governor, the Deputy Governor, every appointed Director, and every officer and employee of the Bank shall take an oath of secrecy in the form prescribed by the Board.

(2) Except for the purpose of the performance of his duties or the exercise of his functions, no director, officer, or employee of the Bank shall disclose to any person any material information relating to the affairs of the Bank or any financial institution or other person, firm, company or organisation which information he has acquired in the performance of his duties or his functions.

(3) The validity of any act or proceeding of the Bank shall not be affected by any vacancy amongst the Directors or by a defect in the appointment of a Director.

PART V - CURRENCY

17. (1) The monetary unit of the Participating Governments shall be the Eastern Caribbean Dollar divided into one hundred cents, with such external value as may from time to time be declared in accordance with paragraph (2) of this Article.

(2) The Bank shall on the recommendation of the Board approved by a decision of the Council, both such recommendation and decision having been adopted unanimously by all their members declare the external value for the Eastern Caribbean dollar, having due regard to the obligations that any Participating Government has assumed in accordance with the provisions of the Articles of Agreement of the International Monetary Fund: Provided that any declaration made by the East Caribbean Currency Authority fixing the external value of the East Caribbean Dollar shall remain in full force and effect until altered by the Bank under this paragraph.

(3) Provision shall be made by the Council to arrange for reasonable compensation to a Participating Government adversely affected by a change in external value of the Eastern Caribbean Dollar, in accordance with Annex II to the Agreement. Notice of any change in external value of the Eastern Caribbean Dollar shall be published in the Official Gazette of each of the Participating Governments and communicated to the Public in such other manner as the Bank shall decide.

18. (1) The Bank shall have the sole right to issue currency notes and coins in the territories of the Participating Government and no other person or authority shall issue currency notes, bank notes or coins, (whether or not of a commemorative nature), or any documents or token payable to bearer on demand having the appearance of or purporting to be currency.

(2) Currency issued or deemed by the Bank to have been issued by it shall in accordance with the provisions of paragraph (3) of this Article, shall be legal tender in the territories of the Participating Governments for the discharge of all public and private obligations and shall include on the date that this Agreement takes effect, all currency issued by or deemed to have been issued by the Authority.

Currency issued or deemed by the Bank to have been issued by it shall include -

(i) currency issued by the East Caribbean Currency Authority as well as currency bearing its inscription that may be put into circulation by the Bank;

(ii) currency issued by a bank;

(iii) such other currencies as the Board may by resolution indicate hereafter.

(3) Notes and commemorative coins issued or deemed to have been issued by the Bank shall be legal tender for the payment of any amount and other coins issued or deemed to have been issued by the Bank shall be legal tender at their face value up to an amount not exceeding twenty dollars in the case of coins of a denomination not less than fifth cents, and not exceeding five dollars in the case of a lower denomination.

(4) Notwithstanding paragraph (3) of this Article, a note or coin issued or deemed to have been issued by the Bank shall not be legal tender:-

(a) if, in the case of a note, it has been altered in any material way;

(b) if, in the case of a coin, it has been tampered with.

(5) (a) A note shall be deemed to have been materially altered, if it has been mutilated or has been defaced;

(b) a coin shall be deemed to have been tampered with if it has been impaired, diminished or lightened otherwise than by fair wear and tear or has been defaced.

19. (1) The Bank shall arrange for the printing of currency notes and the minting of coins and for all matters relating thereto, and for the security and safe

keeping of unissued currency and for the custody and destruction, as necessary, of plates, dies and retired currency.

(2) Currency issued by the Bank shall be in such denominations and of such composition, form and design as shall be approved by the Council on the recommendation of the Board.

(3) The characteristics of currency to be issued by the Bank shall be published in the Official Gazette of each of the participating Government.

20. The Bank shall have the power to call in, for the purpose of withdrawing from circulation, any currency issued or deemed by the Bank to have been issued by it on payment of the face value thereof. Any currency so recalled shall, in accordance with the terms of a notice which shall be published in the Official Gazette of each of the Participating Governments and communicated to the public in such other manner as the Bank shall decide cease to be legal tender: Provided that the holders of such currency shall be entitled, at any time within a period of not less than five years as may be specified in the notice and thereafter at the sole discretion of the Bank, to claim payment from the Bank in accordance with such regulation as it may issue.

21. The Bank shall issue, reissue, and exchange on demand currency issued or deemed by the Bank to have been issued by it: Provided that in the event of the temporary unavailability of a requested issue or denomination, the Bank may deliver currency of available issues and denominations that most nearly approximate those requested.

22. (1) No person shall be entitled to recover from the Bank the value of any lost or stolen currency, except as may be provided under the terms of a waiver expressly executed in respect of the assumption by the Bank of risks incident to shipments of currency.

(2) The conditions under which mutilated or otherwise damaged currency may be exchanged or refunded at a partial or face value shall be determined by regulations issued by the Bank.

23. The Bank shall assist in the enforcement of any law related to the counterfeiting of currency in the territories of the Participating Governments and certification by a duly authorised officer of the Bank that an item in question is or is not genuine shall be prima facie evidence of the fact in any legal proceedings in those territories.

PART VI - EXTERNAL RESERVE

24. (1) The Bank shall maintain an External Reserve consisting of all or any of the following on such terms and conditions as the Board may prescribe:

(a) gold;

(b) foreign exchange in the form of currency or bank balances held abroad;

(c) any internationally recognised reserve assets;

(d) bills of exchange and promissory notes denominated in foreign currency and payable at any place outside the territories of the Participating Government;

(e) treasury bills issued by foreign governments;

(f) securities issued or guaranteed by foreign governments or international institutions

(2) Subject to paragraph (3) of this Article the Bank shall at all times maintain the External Reserve in an amount not less than sixty per cent of the value of the currency issued or deemed by the Bank to have been issued by it and in circulation and other demand liabilities but excluding coin issued for commemorative purposes.

(3) The percentage referred to in paragraph (2) of this Article may be changed by the Bank on the unanimous agreement of all of the members of the Council.

(4) If the External Reserve has declined or in the judgement of the Board appears likely to decline in such a way as to jeopardise the adequacy of such reserve the Bank shall submit tot he Council a report on the reserve position and the causes that have led or may lead to such a decline together with recommendations concerning the measures that may be deemed necessary to forestall or otherwise remedy the situation. The Bank shall make further reports and recommendations at intervals not exceeding six months until such time, in its judgement, the situation has been rectified.

(5) If at any time the assets held under this Article together with such other assets as the Bank is permitted to hold under Articles 31 and 40 of this Agreement are less than the aggregate amount of the currency issued or deemed by the Bank to have been issued by it and in circulation and other demand liabilities, such deficiency shall be a liability of the Participating Governments in the proportions prescribed in Article 6 of paragraph (4) of this Agreement.

(6) The Bank may establish such other external reserve funds including national reserve funds, as the Council may from time to time approve.

PART VII - FOREIGN EXCHANGE OPERATIONS

25. (1) The Bank shall be the depository of the external assets of the Participating Governments provided that the Bank may designate such agents and correspondents as it may select to hold these assets.

(2) The Bank may serve as the depository of the external assets of boards, agencies, the social security fund and other statutory bodies of such Participating Governments.

26. The Bank may:

(a) buy, sell, or deal in gold coins or bullion or other precious metals;

(b) buy, sell, or deal in foreign exchange, using for these purposes any of the instruments commonly used by bankers;

(c) open and maintain accounts abroad;

(d) open and maintain accounts and act as agent or correspondent for foreign central banks, foreign correspondent for foreign central banks, foreign financial institutions, foreign governments, foreign government agencies and institutions and international financial institutions.

27. The Bank shall deal in connection with the operations enumerated in Article 26 hereof only with the Participating Governments, their boards and agencies, their social security funds and other statutory bodies, local government bodies, foreign central banks, local and foreign financial institutions, foreign governments, foreign government agencies and institutions and international financial institutions.

28. (1) The Bank shall from time to time determine the rates at which it will buy, sell or deal in gold and foreign currencies.

(2) The Bank may close the foreign exchange markets for the Eastern Caribbean Dollar in the territories of the participating Governments during a period of not more than two working days if it deems such action to be necessary to prevent disorderly conditions in the foreign exchange markets and considers it to be in the interest of the Participating Governments:

Provided that the Bank may request the Council that a reasonable extension of the period of closure be granted, during which the Bank shall proceed to remove the causes of the disorder.

29. (1) The gains arising from any change in the valuation of the Bank's assets or liabilities in, or denominated in gold, special drawing rights or foreign currencies as a result or alteration of the external value of the Eastern Caribbean Dollar, or of any change in the value of such assets or liabilities relative to the Eastern Caribbean Dollar, shall be credited to a special account entitled "Revaluation Reserve Account" and neither the gains nor the losses arising from any such change shall be included in the computation of the annual profits and losses of the Bank.

(2) Any gains arising from changes described in paragraph (1) of this Article during any financial year of the Bank shall be used: -

(a) first, to redeem any securities held by the Bank as a result of previous losses in accordance with paragraph (2) of this Article;

(b) second, to create or increase the credit balance in the Revaluation Reserve Account.

(3) Any credit balance in the Revaluation Reserve Account at the end of each financial year of the Bank shall be held in reserve, and shall be used only for the purpose described in paragraph (4).

(4) The losses arising from changes described in paragraph (1) of this Article shall be set off against any credit in the Revaluation Reserve Account and, notwithstanding any other provisions of this Agreement, if such balance is insufficient to cover such losses, the Participating Governments shall issue and cause to be transferred to the ownership of the Bank non-interest bearing, non-negotiable securities to the extent of the deficiency in the proportions according to which profits may be distributed to each Participating Government pursuant to Article 6 of paragraph (4) of this Agreement.

(5) No credits or debts shall be made to the Revaluation Reserve Account except in accordance with the provisions of this Article.

PART III - RELATIONS WITH FINANCIAL INSTITUTIONS

30. The Bank may open accounts for, and accept deposits from financial institutions doing business in the territories of the Participating Governments under such terms and conditions, including the payment of interest and the establishment of charges thereon, as the Board may from time to time determine.

31. The Bank may:

(1) purchase from, sell to, discount and rediscount for financial institutions bills of exchange and promissory notes drawn or made for bona fide commercial, industrial, or agricultural purposes, bearing two or more good signatures at least one of which shall be that of a bank and maturing within ninety-one days from the date of their acquisition by the Bank:

Provided that bills of exchange and promissory notes drawn or made for the purposes of financing seasonal agricultural operations or marketing of crops shall mature within one hundred and eighty-two days from the date of their acquisition;

(2) grant to financial institutions advances whether by loans or overdrafts, for periods not exceeding ninety-one days secured by -

(a) instruments specified in paragraph (1) of this Article;

(b) warehouse warrants and documents of title issued in respect of staple commodities or other goods duly insured:

Provided that the Bank shall determine from time to time the maximum percentage of advances in relation to the current value of such commodities or goods;

(c) holding of any such assets that the Bank is permitted to buy, sell or deal under paragraphs (a) and (b) of Article 26 of this Agreement;

(d) treasury bills and securities issued or guaranteed by any of the Participating Governments or its agencies, subject as provided in Article 40 of this Agreement.

32. The Bank shall fix from time to time its rates for discounts and rediscounts. It may establish differential rates and ceilings for various classes of transactions or maturities.

33. (1) With the approval of the Council the Bank may, from time to time, prescribe either -

(a) be written notice to the main office of each financial institution in the territories of the Participating Governments; or

(b) by publishing in newspapers of general circulation in the territories of the Participating Governments or in the Official Gazette of each territory,

the maintenance of required reserves, including marginal required reserves, against deposit and other similar liabilities specified for this purpose. Such reserves shall be maintained either by way of cash holdings with each financial institution or by way of deposits with the Bank.

(2) With the approval of the Council the Bank may require financial institutions of a given class or classes to hold such securities (including securities that may be issued by a Participating Government as provided in Article 40, paragraph (2) sub-paragraph (b) of this Agreement in substitution for its liabilities to financial institutions in respect of special deposits), issued or guaranteed by one or more of the Participating Governments, as the Board may designate for purposes of this Article in amounts not to exceed ten per cent of such institutions' deposits and similar liabilities.

(3) The Bank may prescribe different reserve ratios for different classes of deposit and other similar liabilities and may prescribe the method of their computations:

Provided that: -

(i) the total amount of reserves that the financial institutions are required to hold shall be such percentage of the total deposit and other similar liabilities to which reserves ratios have been made applicable, as the Council may determine from time to time;

(ii) the reserve ratios shall be uniform for all banks and for all credit institutions although the ratios may differ between the two classes:

Provided that in the case of banks or credit institutions incorporated in any of the countries of the Participating Governments and in respect of which at least seventy-five per cent of the shares are locally owned, the Bank may allow such banks or institutions a period not exceeding three years to attain the Bank's reserve requirements;

(iii) any such prescriptions or increases in the required reserve ratios shall be effective only after at least 15 days notice thereof has been communicated to the financial institutions;

(iv) reserves held as demand deposits with the Bank, may under such regulations and subject to such charges as may be prescribed by the Bank, be withdrawn temporarily by the financial institutions for the purposes of meeting their existing liabilities and may further serve as a basis for the clearance of cheques and the settlement of balances among financial institutions.

(4) The Bank may impose on any financial institution that fails to maintain required reserves in accordance with paragraphs (2) and (3) of this Article a charge at an annual rate not exceeding five percentage points above the highest rate fixed by the Bank pursuant to Article 32 of this Agreement for any of its operations on the amount of the deficiency for so long as the deficiency continues. Such charge shall be payable to the Bank on such date as may be prescribed by the Bank and may be recovered by deduction from any balance of the financial institution held by the Bank.

34. (1) The Bank may, from time to time prescribe either -

(a) by written notice to the main office of each financial institution in the territories of the Participating Governments or in the Official Gazette of each territory -

(i) the method of computation and minimum and maximum rates of interest payable in respect of deposit and other similar liabilities;

(ii) the permissible purposes, aggregate ceilings, maximum amounts beyond which the Bank's approval is necessary, maximum maturities and maximum interest chargeable and minimum cash, margin or security required in respect of -

(a) the making of advances whether by loans or overdrafts and investments;

(b) the discounting of bills and notes;

(c) the issuing of letters of credit;

(d) the granting of acceptances and other credit; and

(iii) the manner of the disclosure to the public and to -

(a) each depositor in a financial institution the effective annual interest rates payable in respect of deposits made therewith;

(b) each person to whom credit is extended the effective annual interest rate payable in respect thereof -

Provided that prescriptions under clauses (i) and (ii) shall require a decision of the Board, adopted by two-thirds of all the appointed Directors who, in taking that decision, shall take cognisance of such general guidelines as the Council may indicate.

(2) In any prescription by the Bank under this Article the Bank may, for the purposes of determination of the maximum interest chargeable under (b) (ii) or in order to arrive at the effective annual interest rate payable by any person under (iii) (b), require that the method of computation should

include any service or other charges payable in respect of the credit extended by the financial institution.

(3) On the recommendation of the Board, adopted by two-thirds of all of the appointed members, and the approval of Council adopted by two-thirds of all its members, the provisions in paragraph (1) of this Article may be applicable in the manner therein indicated to every person, having a principal object the extension of credit to the public generally or to particular members thereof, who in the ordinary course of business, during any calendar year extends as a minimum such amount of credit as is specified in the decision. The Bank may examine the accounts, books and papers of any person that it has reason to suspect is extending or has extended credit in violation of this paragraph and the refusal to submit such accounts, books and papers shall be prima facie evidence of such violation.

(4) Notices issued under this Article shall come into effect on such date specified not earlier than thirty days after the issue date. The Bank in its notices may differentiate, according to the nature of their business, between banks and other financial institutions as well as other creditors or classes thereof in respect of items set out in paragraph (1) of this Article.

(5) The Council may authorise or require the Bank to apply different prescriptions under clauses (i) and (ii) of paragraph (1) (b) of this Article in respect of territories of the Participating Governments prescriptions purporting to relate to the different economic circumstances according to their different economic circumstances:

Provided that any prescriptions purporting to relate to the different economic circumstances of the territory of any Participating Government should have the support of the Participating Government concerned.

35. (1) Every financial institution shall furnish to the Bank at such time and in such manner as the Bank may prescribe, such information and data as the Bank may require for the proper discharge of its functions and responsibilities and in order to verify compliance with directions issued under Article 33 and 34 of this Agreement the Bank may require any person who is or has been made subject thereto to open his books for inspection.

(2) Without limiting the generality of paragraph (1) of this Article every financial institution shall, at the request of the Bank, in relation to that financial institution' operations in the territory of a Participating Government, submit tot he Bank in such form as the Bank may from time to time approve -

(a) not later than fourteen days after the last day of the month to which it relates, a monthly statement of assets and liabilities at the end of each month;

(b) not later than fourteen days after the end of the quarter to which it relates, a quarterly return providing an analysis of customers'

liabilities to the financial institution in respect of loans, advances and other assets oft he financial institution at the end of each quarter;

(c) within such period as the Bank may determine such other returns as the Bank may require;

Providing that the Bank may in writing extend the period for the furnishing of such statement and returns.

(3) The Bank may require a financial institution to submit such further information and data relating to the statements and returns described in paragraph (2) of this Article and such further information and data shall be submitted within such period and in such manner as the Bank may require.

(4) No statement, return, information or data shall be required under paragraph (1), (2) or (3) of this Article with respect to the affairs of any particular customer of a financial institution.

(5) All statements and returns submitted by a financial institution under paragraph (2) hereof and any data or information submitted by a financial institution under paragraph (1) or (2) hereof, shall be regarded by the Bank as secret, but the Bank may prepare and publish consolidated statements relating to the territories of the Participating Governments individually or collectively, aggregating the figures in the monthly or quarterly returns furnished under sub-paragraphs (a) and (b) of paragraph (2) of this Article.

(6) At the request of a Participating Government, the Bank shall arrange for that Government to be supplied with a copy of any statement or return furnished by a financial institution under paragraph (2) in relation to its operation in the territory of that Government and all statements and returns so supplied shall be regarded by the Government as secret.

36. The Bank may at a suitable time in conjunction with other banks organise clearing houses in such places as may be desirable.

PART IX - RELATIONS WITH PARTICIPATING GOVERNMENTS

37. (1) The Bank shall be the banker, fiscal agent of, and adviser to the Participating Governments on monetary and financial matters and shall be the depository of funds of those Governments:

Provided that in such cases, for such periods of time, and on such other terms and conditions as may be agreed between each Participating Government and the Bank -

(a) the Bank may act in such capacities to government boards and agencies, social security funds and other statutory bodies and local government bodies, and

(b) the Participating Government may maintain working balances with and generally use the services of other financial institutions.

(2) The Council, as well as any Participating Government may request the Bank to render advice and to furnish reports on matters relating to the purposes of the Bank as set forth in Article 4 of this Agreement.

(3) It shall be the duty of the Bank to inform and advise the Council and any Participating Government concerning any matter that in the opinion of the Bank is likely to effect the achievement of the Bank's purposes.

(4) The Bank may represent any Participating Government at any international conference at which its attendance is requested by such Participating Government.

38. The Bank shall, upon designation by any Participating Government, serve as the depository and fiscal agency of, and the institution through which dealings by the Participating Government shall be shall be conducted with international financial institutions of which that Participating Government is a member, and other agencies and countries.

39. Except in accordance with Article 31 paragraph (2) sub-paragraph (d) and Article 40, the Bank shall not, directly or indirectly -

(1) make advances to any Participating Government, its boards and agencies, social security funds and other statutory bodies and local government bodies; or

(2) acquire the notes, bills, securities or other evidence of debt guaranteed by any Participating Government, its boards and agencies, social security funds and other statutory bodies and local government bodies:

Provided that this Article shall not operate to prevent the acquisition by the Bank of securities transferred to it by a Participating Government to evidence a liability in accordance with Article 24 paragraph (5) or Article 29 paragraph (4).

40. (1) The Bank may, subject to such terms and conditions as the Board may prescribe:-

(a) make temporary advances to each Participating Government to meet its seasonal needs in an amount not to exceed during a given financial year of that Participating Government five per cent of its average annual recurrent revenue of that Government as determined by the Bank, over the three preceding financial years;

(b) purchase, sell, discount and rediscount treasury bills, issued by any of the Participating Governments, payable in Eastern Caribbean Dollars, forming part of a public issue, and maturing within ninety-one days of the date of their acquisition by the Bank; but the holding of treasury bills of any one Government at any one time shall not exceed ten percent of the estimated recurrent revenue of that Government as determined by the Bank for the current year;

(c) purchase and sell publicly issued securities (other than treasury bills) or or guaranteed by any of the Participating Governments payable in Eastern Caribbean Dollars and maturing in not more than fifteen

years from the date of their acquisition by the Bank, but the holding of such securities at any one time other than securities held under sub-paragraphs (d) and (e), shall not exceed fifteen per cent of currency issued or deemed by the Bank to have been issued by it and in circulation and other demand liabilities:

Provided that the percentages mentioned in sub-paragraphs (a), (b) and (c) shall be reviewed by the Council annually and approved or varied either generally or specifically in respect of any Participating Government;

(d) invest in securities of the Participating Governments to any amount and to mature at any time on behalf of staff and superannuation funds and other similar funds of the Bank;

(e) purchase and sell bonds of any Corporation established under the authority of any Participating Government or Governments for the express purpose of financing development within the territory or territories thereof:

Provided that -

(i) the bonds by their terms shall mature in not more than ten years from the date of their acquisition by the Bank;

(ii) repayment of their interest and principal shall be guaranteed by the Participating Government or Governments under whose authority the Corporation is established;

(iii) the Bank may, upon default of the issuer, whether in whole or in part, invoke the guaranty under (ii) solely by notification to the guarantor or guarantors, and satisfy itself to the full extent of the obligation outstanding, the amount thereof being deemed to have been accelerated for the purpose of the guarantee, by charging the profits of the Bank distributable to the guarantor or the guarantors pursuant to Article 6 paragraph (2) during the year of default and succeeding financial years of the Bank;

(iv) the amount of bonds held in respect of any territory by the Bank under Article 40 paragraph (1) sub-paragraph (e) of this Agreement shall not at any time exceed two and one half per cent of the average annual recurrent revenue of that Government, as determined by the Bank, over the prior three financial years.

(2) Without limiting the generality of the Provisions of paragraph (1) the Bank is expressly authorised to -

(a) make advances to any Participating Government on such terms and conditions as may be agreed, in respect of subscriptions and other payments resulting from or incidental to, membership in any international financial institution established under governmental auspices, its participation in any account thereof and any transactions and operations undertaken in connection therewith; and

(b) assume pursuant to agreement with each Participating Government, its liabilities due and outstanding to financial institutions in respect

of special deposits required of them as of the date on which the Bank shall be deemed to have been established in accordance with Article 54 paragraph (2) of this Agreement :

Provided that each such agreement shall specify the terms and conditions of repayments to the Bank by the Participating Government of the liabilities thus assumed, and that Participating Government shall obligate itself not to require further special deposits of any financial institutions operating within its territory.

41. (1) The Bank shall act as agent for the Participating Governments in the administration of any law or regulation relating to exchange control; and in accordance with such instructions as the Council may, from time to time, issue in the licensing of any offshore banking of offshore trust operation.

(2) The Bank shall monitor the operations of offshore financial institutions in accordance with the laws or regulations under which such financial institutions have been licensed to operate and shall take account of such guidelines as the Council may, from time to time, issue for this purpose.

(3) Returns, statements, accounts or information required to be submitted to the Participating Governments under the provisions of any such law or regulation shall be simultaneously submitted to the Bank.

PART X - MISCELLANEOUS

42. (1) The Bank may, with the approval of the Council, administer or participate in schemes for the purpose of -

(a) insuring bank deposits;

(b) providing export credit insurance and guarantee; and

(c) providing guarantees for credit extended by financial institutions.

(2) subject to paragraph (3), the Bank may, with the approval of the Council, subscribe to, hold and sell shares of a corporation organised with the approval or under the authority of the Participating Government for any of the purposes specified in paragraph (1).

(3) The total value of the Bank's shareholdings in corporations to which paragraph (2) refers shall not exceed 50 per cent of the General Reserve of the Bank.

(4) Subject to paragraph (5) the Bank may, with the approval of the Council, establish special funds in order to facilitate the administration of the schemes specified in paragraph (1) and may make annual contributions thereto out of its profits.

(5) The Bank may, with the approval of the Council advance to any such special fund such sums as may be required during a financial year:

Provided that such advances do not exceed its annual contribution to the fund for that year.

(6) If the Bank ceases to administer any of the schemes specified in subsection (2), the special fund relating to the particular scheme which the Bank has ceased to administer, may be liquidated in such manner as the Bank, with the approval of the Council, determines.

43. The Bank shall not -

(1) engage in trade or participate directly or indirectly in the ownership of any financial, agricultural, commercial, industrial or other enterprises, except to the extent provided in Article 42 paragraphs (2) and (4) sub-paragraph (a) hereof;

(2) purchase or retain ownership of real estate except insofar as is necessary for the conduct of its business and for the housing of its officers and employees;

(3) make unsecured advances, whether by loans or overdrafts, except as provided in Article 39;

(4) make advances, whether by loans or overdrafts, secured otherwise than as laid down in this Agreement :

Provided that -

(a) should any debts due to the Bank be in jeopardy, the Bank may secure such debts on real or other property, and, if the security is enforced, acquire and hold such property but with a view to the sale thereof as soon as is practicable;

(b) subject to terms and conditions to be prescribed by the Board, the Bank may grant advances to any of its officers or employees:-

(i) for the purchase, construction or repair of one residential house for his personal use against the security of the said house, and

(ii) for other purposes in an amount not to exceed during the time that they are outstanding the annual remuneration received by the borrower from the Bank;

(5) accept shares as collateral security, except as provided in paragraph (4) sub-paragraph (a) hereof;

(6) allow the renewal or substitution of maturing bills of exchange and promissory notes purchased, discounted or rediscounted by, or pledged with, the Bank save in exceptional circumstances when the Bank may allow one renewal or one substitution only in either case of not more than fifty per cent of the original amount of any such bill or note for a period not exceeding ninety days.

44. In carrying out its functions the Bank shall be guided solely by technical criteria and considerations and shall not discriminate in any aspect of its operations on political or other non-economic grounds.

45. (1) The Bank may make such regulations as may be required from time to time for giving effect to the provisions of this Agreement.

(2) Regulations made by the Bank shall have full force and effect when all steps have been taken as are necessary to give legal effect to them in each of the territories. All regulations made by the Bank shall promptly be published in the Official Gazette of each of the Participating Governments and notified to the public in such other manner as the Bank shall decide.

(3) In the event that any one of the Participating Governments shall, within 21 days of the date that a regulation becomes effective, lodge with the Council a request for review, the Council shall promptly review the regulation in consultation with the Bank and render its decision.

PART XI - ACCOUNTS AND STATEMENTS

46. The financial year of the Bank shall begin on the first day of April and on the thirty-first day of March :

Provided that the first financial year of the Bank may begin on a day after the first day of April and end on the thirty-first day of March next following.

47. The accounts of all transactions of the Bank shall be audited by an auditor appointed by the Bank from a list approved by the Council.

48. (1) Within three months of the close of each financial year the Bank shall -

(a) transmit to each of the Participating Governments a copy of its annual accounts certified by the auditor and such annual accounts shall be published as soon as may be;

(b) transmit to each of the Participating Governments and publish a report on its operations during the year :

Provided that the annual accounts and the report may be published within four months of the close of the first financial year of the Bank.

(2) The Bank shall, as soon as may be, make up and publish a return of its assets and liabilities as at the close of business on the last business day of each month and shall transmit a copy to each of the Participating Governments.

(3) The Bank shall include in the monthly return the proportion which the value of the reserve of external assets bears to its notes and coins in circulation and other demand liabilities.

49. The Council may at any time require an auditor or board of audit to examine and report on the accounts of the Bank, as a whole, or any aspect of the Bank's operations and the Bank shall provide the auditor or board of audit with all necessary and proper facilities for such an examination

PART XII - IMMUNITIES, PRIVILEGES AND ARBITRATION OF DISPUTES

50. (1) To enable the Bank to fulfil the functions with which it is entrusted, the status, immunities and privileges set forth in this Article shall be accorded to the Bank in the territory of each Participating Government.

(2) The Bank, its property and its assets, wherever located and whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that it expressly waives its immunity for the purpose of any proceedings or by the terms of any contract.

(3) Property and assets of the Bank shall be immune from search, requisition, confiscation, expropriation or any other form of seizure.

(4) The archives of the Bank shall be inviolable.

(5) To the extent necessary to carry out the provisions of this Agreement, all property and assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature.

(6) The official communication of the Bank shall be accorded by Participating Governments the same treatment as the official communications of other Participating Governments.

(7) The Governor, the Deputy Governor, the appointed Directors, officers and employees of the Bank:

(i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Bank waives this immunity;

(ii) not being local nationals, shall be granted the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by Participating Governments to the representatives, officials and employees of comparable rank of other Participating Governments;

(iii) shall be granted the same treatment in respect of travelling facilities as is accorded by Participating Governments to representatives, officials and employees of comparable rank of other Participating Governments.

(8) (a) The Bank, its assets, property, income and its business, shall be immune from all taxation and from all customs duties in respect of goods acquired by, or services rendered to it for its own use. The Bank shall also be immune from liability for the collection or payment of any tax duty in respect thereof except when it resells a good acquired by it to a member of the public.

(b) No tax shall be levied on or in respect of salaries and emoluments, including pensions and gratuities, paid by the Bank to the Governor, the Deputy Governor and the appointed Directors, officers and employees of the Bank.

(c) No taxation of any kind shall be levied on any obligation or security issued by the Bank, including any dividend or interest thereon, by whomsoever held -

(i) which discriminates against such obligations or security solely because of its origin; or

(ii) if the sole jurisdictional basis for such taxation is the place in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

51. (1) Any dispute between the Participating Governments concerning this Agreement or between the Bank and a Participating Government, shall be submitted to arbitration by a tribunal or arbitrators appointed pursuant to paragraph (2) of this Article.

(2) (a) If the dispute is between only two parties, each party shall be entitled to appoint one arbitrator and the two parties shall together appoint a third arbitrator, who shall be the Chairman of the tribunal.

(b) If the dispute is between three or more parties, each party shall be entitled to appoint one arbitrator and all the parties shall together appoint an additional arbitrator, who shall be the Chairman of the tribunal.

(3) If, within thirty days of receipt of the request for arbitration, any party has not appointed an arbitrator or if within thirty days of the appointment of the arbitrators the parties have not appointed the third arbitrator or, as the case may be, the additional arbitrator, any party to the dispute may request the Chief Justice of the East Caribbean States Supreme Court, or in the event of his non-acceptance for any reason, such other judicial authority as may be prescribed by the Council, to make the required appointment.

(4) The procedure of the tribunal shall be fixed by the arbitrators but the Chairman of the tribunal shall have full power to settle all questions of procedure in any case of disagreement with respect thereto. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding upon the parties. The Chairman of the tribunal shall be entitled to vote, and in the event of a tie, shall have a casting vote.

PART XIII - WITHDRAWAL AND TERMINATION

52. (1) A Participating Government may withdraw from the Bank by giving written notice of its intention to do so simultaneously to the Chairman of

the Council and to the Bank. The Chairman shall promptly notify the other Participating Governments. The withdrawal shall take effect twelve moths after the notice is received by the Bank:

Provided that at any time before the withdrawal becomes finally effective, the Participating Government may notify the Bank in writing of the cancellation of its notice of intention to withdraw.

(2) After withdrawal, a Participating Government shall remain liable for all direct and contingent obligations to the Bank which it had incurred or to which it was subject up to the date of withdrawal from the Bank but shall not incur any liability for obligations resulting from operations of the Bank effected after that date and shall cease to participate in the profits or losses of the Bank thereafter.

(3) Within three months from the date of receipt by the Chairman of the Council of the notice of withdrawal, the Council shall determine the settlement of accounts between the Bank and the withdrawing Government. Such settlement shall take account of:

(a) notes and coins in circulation in the territory of the withdrawing Government and any amount owning by the said Government to the Bank;

(b) the withdrawing Government's share in the General Reserve of the Bank in accordance with the imputed equity interest formula contained in paragraph (4) of Annex 1 to this Agreement;

(c) such other considerations as the Council may consider.

53. (1) The Council may by resolution adopted by a two-thirds majority of all of its members terminate the operations of the Bank. After such termination, the Bank shall forthwith cease all activities; except those incident to the orderly realization, conservation and preservation of its assets and settlement of its obligations.

(2) No distribution of the assets of the Bank shall be made to Participating Governments until all liabilities to creditors, including currency in circulation net of Government debt, have been discharged or provided for and until the Council by resolution adopted by a two-thirds majority of its members, shall have decided to make such a distribution.

(3) the net assets of the Bank remaining, after the settlement under paragraph (2) above, shall be distributed to Participating Governments in accordance with the imputed equity interest formula contained in paragraph (4) of Annex I to this Agreement.

PART XIV - FINAL PROVISIONS

54. (1) This Agreement shall enter into effect -

(a) when it has been signed on behalf of all the Participating Governments; and

(b) when each Participating Government deposits with the Authority an instrument of acceptance stating :-

(i) that it has accepted this Agreement in accordance with its laws and has taken all steps necessary to enable the Bank to operate, in accordance with this Agreement, within its territory including the enactment of such law as may be necessary to satisfy the provisions of this Agreement;

(ii) that the Participating Government agrees that, in respect of its territory, the Bank shall exercise exclusive powers in respect of those matters enumerated in Articles 18 paragraph (1), 19 paragraphs 20, 21, 33, and 34 of this Agreement.

(2) The Bank shall be deemed to have been established immediately upon the performance of the provisions of paragraph (1) hereof by all Participating Governments.

(3) The Authority shall be deemed to cease to exist immediately upon the establishment of the Bank.

(4) The East Caribbean Currency Agreement 1965 and all amendments thereto shall cease and terminate on the establishment of the Bank.

(5) Each Participating Government shall take the necessary action to make effective the provisions of this Agreement and enact such legislation as may be necessary to give effect to the Agreement.

55. An amendment to this agreement may be proposed tot he Council by the Bank or by any Participating Government and shall be effective when it is agreed to by all the Participating governments and each Participating Government deposits with the Bank an instrument stating that it has taken all steps necessary to make it effective in its territory.

56. After the entry into force of this Agreement, a territory other than one listed in the Preamble may in the discretion of the Council be permitted to become a member of the Bank by accession to this Agreement on such terms as the Council shall determine by a two-thirds majority vote of the total number of its members. Any such territory shall deposit, on or before a date appointed by the Council an instrument of Accession with the Bank which shall notify such deposit and the thereof to the parties to this Agreement.

IN WITNESS WHEREOF the representatives of the Participating Governments being duly authorised in their behalf, have signed this Agreement.

DONE AT Port-of-Spain this 5th day of July, 1983

ANNEX I

FORMULA FOR SHARING THE PROFITS OF THE BANK

1. The distributable profits of the Bank shall be distributed among Participating Governments according to the formula set forth below.

2. The Bank in respect of each financial year shall determine the share of its distributable profits attributable to returns on investments of its external reserves used as backing for the currency as well as the distributable profits attributable to other revenue-earning activities of the Bank.

3. The share of distributable profits attributable to returns on investment of its external assets shall be distributed between the member States in proportion to the respective amount of currency in circulation in each Member State. In order to facilitate the determination from time to time of the currency in circulation in all member States, the Bank in its preparation of any new issue of currency notes to be put into circulation at the date of commencement of this Agreement, shall order that such notes be coded in such a manner as to permit the issue of notes only of a particular code to a Member State, and any subsequent determination of the currency in circulation in that State shall take account of redemptions of notes of the particular code issued to a member State, notwithstanding that such notes may have been redeemed from elsewhere.

4. The share of distributable profits attributable to other revenue-earning activities of the Bank shall be distributable on the basis of the imputed equity interest of each Member State, which shall be the proportion of profits provided for under the formula in operation in 1969 adjusted to take account of the ratios determined under paragraph (3) of this Annex, but so as to ensure that the aggregate of all proportions is one.

ANNEX II

COMPENSATION ARRANGEMENT TO COVER LOSSES DUE TO CHANGES IN EXTERNAL VALUE OF THE DOLLAR

1. In the first instance, compensation would be considered in respect of net losses in the capital value of assets. On this basis, the following would apply: -

(a) compensation would be considered in the first instance to cover overall net losses in capital value of assets only where these are being managed by the Bank as fiscal agent and depository of Participating Governments;

(b) where net adverse movements in current payment commitments occur, the increment in these can be met by the Bank, in whole or in part and for

limited time period, both the proportion and time period to be subject to the decision of the Council on the recommendation of the Bank after detailed objective study;

(c) where the net losses of capital value have occurred as a result of a decision by the Council to vary the parity, as far as possible the objective of the compensation should be to maintain the capital value of assets of those few states which have sustained net losses;

(d) where an involuntary devaluation has occurred, that is where either the reserve currency has been altered in parity, or where the par value of some other major currency has been altered, every effort should be made to assist in maintaining the net capital value of the asset portfolio of each Participating Government;

(e) prior to any action towards compensation in any of the situations enumerated above, the Bank is required to make a full and careful determination of all gains and losses both in respect of its own portfolio and in respect of the portfolios of Participating Governments, and to present this determination to the Monetary Council with a recommendation from the Board with respect to any compensation to be considered;

(f) the provisions of Article 29 of the Agreement should be extended to provide for assistance by the Bank in maintaining the capital value of the external asset portfolios of Participating Governments as well as that of the Bank itself, and this could be facilitated by an allocation by the Council from the annual profits of the Bank to the "Revaluation Reserve Account".

2. Additionally, compensation would be considered as compensatory financing for payments deficits attributable to a change in the exchange value of the EC dollar. In this case the following would apply: -

(a) as in the case of the compensation for capital value losses, the basis for compensatory financing would be a detained study by ECCB, in collaboration with the Participating Governments, of the impact of the change in parity on the economy as a whole. The methodology of such a study would be informed by appropriate internationally accepted guidelines for quantifying the impact of changes in parity value of the currency;

(b) power should be granted to the Central Bank to establish special funds for various purposes, and specifically to establish a special fund for compensatory financing of the sort contemplated here in cases of changes in the parity value of the currency, natural disasters or other situations producing drastic declines in export earnings;

(c) the special fund for compensatory financing should be based on the Bank's own resources as well as on resources mobilised from outside of the Bank. In some cases such outside funds may be made available in liquid resources in advance to the Bank, while in other cases the Bank may negotiate with other organisations for a line of credit or access to resources to be made available in case the expected event occurs;

(d) in the case of compensatory arrangements resulting from deliberate changes in parity, the IMF would no doubt be privy to the economic circumstances justifying the changes and should stand ready to assist any country deemed to be a net loser;

(e) the funding mechanism should aim at providing short-term credit for tiding over the initial period of adversity as well as funding to assist in longer term adjustment of the economy;

(f) the compensatory funding should be supplementary to any compensatory financing of export fluctuations provided by the IMF and should provide as far as possible for entitlement with minimum conditionality;

(g) the mechanism should provide for a combination of loans to Participating Governments, liquidity expansion through additional credit, and balance of payments assistance, the particular combination of facilities depending on the results of the impact study and the wishes of the Participating Government concerned;

(h) where any Participating Government has suffered an adverse impact as a result of the factors mentioned, special consideration will be given to any request which it may make for temporary use of resources made available by the Bank, and allocated to Member States but for the time being not utulised;

(i) the OGCED should be asked to give priority attention to the provision of resources for assistance under this head;

(j) once the studies which the Bank is required to undertake indicate an adverse impact the compensatory procedures should be automatically activated to the extent possible e.g. through the provision of increased liquidity to the banking system and increased foreign exchange. Government borrowing of course, will have to be the subject of a formal application.

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THE CARIBBEAN COURT OF JUSTICE

The Caribbean Court of Justice has a long gestation period commencing in Barbados as early as 1947 when colonial governors called for a Caribbean Court and again in 1970 when the Jamaican delegation to the Sixth Conference of Heads of Government proposed the establishment of a Caribbean Court of Appeal in substitution for the Judicial Committee of the Privy Council. The Conference set up a Committee of Attorneys General who examined the issue and recommended a regional court to replace the Privy Council. Two years later the Organisation of Commonwealth Caribbean Bar Associations (OCCBA) established a Representative Committee to examine the establishment of a Caribbean Court of Appeal in substitution for the Judicial Committee of the Privy Council. The Representative Committee under the chairmanship of the late Justice Aubrey Fraser of Guyana, not only recommended the establishment of a Caribbean Court of Appeal in substitution for the Judicial Committee of the Privy Council, but also recommended that the proposed Court should have an original jurisdiction in respect of matters concerning the Caribbean integration movement. Later, in 1992, the West Indian Commission which was established by the Conference of Heads of Government at their Tenth Meeting in Grand Anse, Grenada in 1989, in its celebrated Report entitled "Time for Action" strongly recommended, as an important structure of governance, the establishment of a Caribbean Supreme Court. The Caribbean Supreme Court would have two jurisdictions, an appellate jurisdiction in substitution for the Judicial Committee of the Privy Council and an original jurisdiction for the interpretation and application of the Revised Treaty of Chaguaramas. The recommendation of the West Indian Commission was endorsed by the Heads of Government which signed the Agreement Establishing the Caribbean Court of Justice at their Twenty-First Meeting in Nassau, The Bahamas, on 5 July 2001.

The proposed Caribbean Court is intended to be a unique institution in international institutional relations. The Court designed not only to replace the Judicial Committee of the Privy Council (JCPC) as the highest appellate municipal court for the Member States of the Caribbean Community, but it is also structured to be an international tribunal employing rules of international law in interpreting and applying the revised Treaty of Chaguaramas Establishing the Caribbean Community including the CARICOM Single Market and Economy. In the exercise of its appellate jurisdiction, the Court will be the tribunal of last resort for participating Member States of the Community. As an international tribunal, however, the Court will exercise an original but exclusive jurisdiction in respect of the interpretation and application of the Treaty. In the exercise of both jurisdictions, the Court is expected to play a critical role in

ensuring legal certainty in the Community and CARICOM Single Market and Economy, in the absence of which there is unlikely to be the stability of expectations which investors require as a basis for predicting outcomes in respect of economic decisions, especially those relating to investments in one or another economic activity.

The proposed Caribbean Court of Justice will also be unique in the sense that it would be the only tribunal of an integration movement whose judges will not be appointed by the political directorate. Compare in this context the European Court of Justice, the Andean Court of Justice, the Central American Court of Justice and the West African Court of Justice. Except for the President of the Court who will be appointed by the Heads of Government on the recommendation of the Regional Judicial and Legal Services Commission, all the other judges of the Caribbean Court of Justice will be appointed by the Commission on the basis of open competition from among candidates of the Commonwealth. The independence of the judiciary is also guaranteed by the arrangements proposed for the payment of judges and their removal from office. In this context attention is called to the Financial Protocol appended to the Agreement. Judges of the Caribbean Court of Justice and members of the Commission will also be accorded in the jurisdictions of participating States such privileges and immunities as are required for the efficient and dispassionate performance of their duties free from political direction or control. In the exercise of its original jurisdiction the Caribbean Court of Justice will be performing the role of an international tribunal whose functions are perceived as critical for the success of the CARICOM Single Market and Economy. Although the Court is headquartered in Port-of-Spain, Trinidad and Tobago, the institution will be peripatetic thereby facilitating access to justice across the region, unlike the Judicial Committee of the Privy Council, located in London, England, which is accessed by only the very wealthy.

One or two policymakers in the Community at an earlier stage of the process, had wondered whether retention of the Judicial Committee of the Privy Council in respect of civil suits might not inspire greater investor confidence with probable positive impact on the regional investment climate. In the present submission, three observations are worth consideration. Firstly, the Judicial Committee of the Privy Council rarely overturns decisions of regional courts on civil matters, thereby attesting to the generally high quality of regional judicial pronouncements. Secondly, foreign investors proposing to commit substantial investments in developing regions normally provide for disputes settlement procedures in the relevant investment instrument. Such procedures usually provide for the settlement of disputes by the International Centre for the Settlement of Investment Disputes (ICSID), an arm of the World Bank (IBRD). Thirdly, the Agreement Establishing the Caribbean Court of Justice expressly provided for the promotion and establishment of alternative disputes settlement modes and this should provide a vehicle for the expeditious and satisfactory resolution of a wide range of commercial disputes.

Of no less importance is the fact that despite its misleading nomenclature, the Caribbean Community remains, and was always intended to be, an association of sovereign States. Indeed, the principle of sovereign equality of States finds cogent legal expression in the unanimity rule prescribed for determinations on substantive issues in the highest decision-making organ of the Community - The Conference of Heads of Government. The legal status of the Caribbean Community has important consequences for the functioning of its organs and the benefits intended to inure to nationals of Member States. It is worthwhile to remember that the express intention of competent decision-

makers is the creation of a single economic space in the Community.

However, given that the Community consists of several sovereign jurisdictions, establishment of a single economic space would require the superimposition of collective economic decisions on discrete national administrations, which, in the ultimate analysis, retain autonomous decision-making powers in areas of national economic development. Furthermore, the relevant integrating instruments setting out the rights and obligations of nationals of Member States have to be enacted into law by the national assemblies concerned before such rights and obligations can be enforced in national jurisdictions. One important consequence of this is that, in the absence of constraining legislation to this effect, national courts would be competent to interpret and apply the relevant enabling legislation.

The rights inuring to nationals of Member States consist, in the first instance, of the right of establishment, the right to provide services and the right to move capital within the Community[1]. The right of establishment has been expressed to include the right to engage in any non-wage-earning activities of a commercial, industrial, agricultural, professional or artisanal nature, as well as the right to create and manage economic enterprises within the contemplation of the revised Treaty. In this connection, it is important to note that non-wage-earning activities means activities of an economic nature undertaken by self-employed persons or independent contractors. In order to facilitate the right of establishment, Member States will be required to eliminate all legislative prescriptions and administrative practices which impede the exercise of the right of establishment. Such constraining prescriptions and practices relate to the employment of managerial, technical and supervisory personnel in economic enterprises, the establishment by qualifying companies of agencies, branches or subsidiaries and conditions for entry of relevant personnel, their spouses and dependants.

One intractable outstanding issue relates to the question of other rights contingent on the right of establishment as defined and agreed. These so-called contingent rights relate to the terms of access by beneficiaries to social infrastructure of host States. Are the children of persons exercising the right of establishment entitled as of right to be accorded places in schools of their choice, assuming the satisfaction of non-discriminatory conditions? If so, are such students entitled to be admitted on the same conditions as nationals in accordance with relevant provisions of the revised Treaty proscribing discrimination on the grounds of nationality? Similar considerations apply to access to health services and other social services. All such issues are to be addressed in a separate Protocol to be elaborated for the purpose[2]. Similar problems are expected to arise in relation to the provision of services by professionals and approved categories of skilled workers. In this connection however, Member States are expected to put in place "appropriate mechanisms to establish common standards to determine equivalency or to accord accreditation to diplomas, certificates and other evidence of qualification secured by nationals of other Member States"[3]. Both with respect to establishment and provision of services, Member States are prohibited from introducing new restrictions.

In all the situations contemplated for the removal of restrictions, competent Organs of the Community are required to establish agreed programmes for the removal of such restrictions. At the end of the time frames established for the removal of restrictions on the right of establishment, the provision of services and the movement of capital, it is envisaged that the most important factors of production would be free to move to any area of the Community where they can be most productively and efficiently employed.

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The axiomatic assumption in all this is that skills will only be inclined to move with opportunities for beneficial employment and that persons entitled would not willingly become a charge on the exchequer of the host country. And in any event, Member States reserve the right to employ safeguard mechanisms in support of their balance of payments positions[4]. Moreover, disadvantaged countries, regions and sectors are allowed special derogations and concessions as appropriate to facilitate their participation in the CARICOM Single Market and Economy.

In terms of capital, Member States undertook to remove discriminatory restrictions on banking, insurance and other financial services and also undertook not to introduce new restrictions on the movement of capital and payments connected therewith and on current payments and transfers[5]. In this context, the Council for Finance and Planning (COFAP) was tasked with establishing, in collaboration with the Committee of Central Bank Governors, a programme for the removal of the restrictions mentioned above. Member States also undertook to co-ordinate their foreign exchange policies in respect of the movement of capital between them and third States. However, given the position currently existing in the Community in the area of foreign exchange policies, with Barbados, Belize, The Bahamas and the OECS States maintaining fixed exchange rates and the rest floating currencies, it is difficult to understand the commitment to coordinated foreign exchange policies in the absence of an obligation to redirect national policies. In the long term it is proposed to move to a single currency for the Community based on voluntary compliance with agreed convergence criteria. Given, however, the temptation to break ranks especially where political imperatives prescribe such a course of action, it is submitted that nothing less than a legal obligation, backed by credible sanctions, to comply with the agreed convergence criteria, will facilitate the achievement of the stated objectives.

The rights identified above are some of the more important rights nationals of the Community will expect to enjoy in order to be persuaded that integration is indeed working. For this to happen, there must exist somewhere in the Community credible mechanisms for authoritative and definitive identification and protection of such rights. This is where the Caribbean Court of Justice will play an important role. As mentioned above, the municipal courts of all Member States, in the absence of legislative constraints, will be competent to interpret and apply the revised Treaty as enacted into local law. This would be no less than a prescription for legal uncertainty issuing from a variety of judicial pronouncements not required to be consonant with one another. Legal uncertainty in this context is likely to engender instability by frustrating the predictability of economic decisions and their consequences. Such an environment is likely to impact negatively on macro-economic stability and the investment climate in general. This will not augur well for the Caribbean Community comprising in large measure capital-importing countries.

Viewed from this perspective, the critical role of the proposed Caribbean Court of Justice in the CARICOM Single Market and Economy is evident. The status of the Community as an association of sovereign States, coupled with the requirement for every Member State to enact the revised Treaty into local law, subjects this instrument to as many interpretations as there are national jurisdictions, thereby constituting a built-in prescription for legal uncertainty. In order to avoid this eventuality, the political directorate of the Community determined to invest the Caribbean Court of Justice with compulsory and exclusive jurisdiction in respect of issues relating to the interpretation

and application of the revised Treaty[6]. Consequently, where a municipal court in any national jurisdiction of a Member State party to the Agreement Establishing the Caribbean Court of Justice is seised of an issue concerning the interpretation and application of the revised Treaty, it will be required to stay proceedings on such an issue pending a pronouncement thereon by the Caribbean Court of Justice[7]. Article 177 of the Rome Treaty prescribes a similar requirement for municipal courts of Member States of the European Community from which there is no appeal. In this way, uniformity of applicable norms is ensured with positive effects on legal certainty and the stability of the investment climate.

In this context, it is also important to bear in mind that the law to be applied by the Court in the exercise of its original jurisdiction is international law which is common to both civil law and common law jurisdictions[8]. This requirement, however, does not preclude the Court from reaching determinations *ex aequo et bono* where the parties to a dispute before the Court so agree[9]. Consequently, both Suriname and Haiti will have no problems in submitting to the jurisdiction of the Court in the exercise of its original jurisdiction. The fact that the jurisdiction of the Court in respect of those submitting thereto is both compulsory and exclusive contributes to uniformity in the applicable rules. This is enhanced by the binding nature of the Court's decisions for third parties. Thus Article 221 of the revised Treaty provides that decisions of the Caribbean Court of Justice constitute *stare decisis*.

Consistent with traditional international law, only the subjects of international law will be accorded *locus standi* in proceedings before the Caribbean Court of Justice. In the premises, private entities or individuals aggrieved by a denial of rights to be accorded under the revised Treaty are required to have their claims espoused by their States of nationality in proceedings before the Court. However, this requirement could result in a denial of access to justice when one party to a dispute is a Member State which declines to espouse the claim of its national. To pre-empt this eventuality, Article 222 of the Revised Treaty (Article XXIV of the Agreement Establishing the Caribbean Court of Justice) provides for private entities to be accorded *locus standi* in proceedings before the Court with leave of the Court where the requirements of justice so prescribe.

Based on the foregoing, the role of the Caribbean Court of Justice in ensuring the efficient operation of the CARICOM Single Market and Economy cannot be denied. In the absence of this institution to pronounce authoritatively and definitively on the rights and obligations of Member States of the Community and their nationals, rights may tend to become illusory and obligations vacuous commitments. An integration regime comprising an association of sovereign States requires an institution like the Caribbean Court of Justice to assist the justice sector in the delivery of services expected of the sector in any progressive, stable national environment. Indeed, despite its status as a supranational collectivity, the European Union still requires the European Court of Justice to inject legal certainty and provide social and economic cohesion in the operational environment. In the Caribbean Community, the Caribbean Court of Justice is expected to contribute no less.

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Notes

1. See, for example, Articles 32, 38 and 40 of the Revised Treaty of Chaguaramas signed in Nassau, The Bahamas on 5 July 2001.
2. See Article 239 of the Revised Treaty of Chaguaramas, *op.cit*
3. See Article 35(2) of the Revised Treaty
4. See Articles 43(2), 47 and 48 of the Revised Treaty.
5. See Articles 39 and 40 of the Revised Treaty
6. See Article 211 of the Revised Treaty and Article XII of the Agreement Establishing the Caribbean Court of Justice
7. See Article 214 of the Revised Treaty and Article XIV of the Agreement Establishing the Caribbean Court of Justice
8. See Article 217 of the Revised Treaty and Article XVII of the Agreement Establishing the Caribbean Court of Justice
9. See paragraph 3 of Article 217 of the Revised Treaty and Article XVII of the Agreement Establishing the Caribbean Court of Justice

AGREEMENT ESTABLISHING THE CARIBBEAN COURT OF JUSTICE

The contracting parties,

Convinced that the Caribbean Court of Justice,(hereinafter referred to as "the Court"), will have a determinative role in the further development of Caribbean jurisprudence through the judicial process;

Convinced also of the desirability of entrenching the Court in their national Constitutions;

Aware that the establishment of the Court is a further step in the deepening of the regional integration process;

Recognising the sovereignty of Members of the Caribbean Community;

Hereby agree as follows:

Article I
Use of Terms

In this Agreement, unless the context otherwise requires:

"Commission" means the Regional Judicial and Legal Services Commission established by Article V;

"Conference" means the Conference of Heads of Government of Member States of the Caribbean Community;

"Contracting Party" means an entity referred to in Article II which has satisfied the requirements of membership and in relation to which this Agreement is in force;

"Heads of Government" means the Heads of Government of the Contracting Parties;

"President" means the President of the Court;

"Secretary-General" means the Secretary-General of the Caribbean Community;

"Treaty" means the Treaty establishing the Caribbean Community signed at Chaguaramas on 4 July 1973 and any amendments thereto which take effect either provisionally or definitively.

PART I

MEMBERSHIP, ESTABLISHMENT OF THE COURT, THE COMMISSION AND RELATED MATTERS

Article II
Membership

This Agreement shall be open to -

(a) Member States of the Caribbean Community;

(b) any other Caribbean country which is invited by the Conference to become a Party to this Agreement.

Article III
Establishment and Seat of the Caribbean Court of Justice

1. The Court is hereby established with:

(a) original jurisdiction in accordance with the provisions of Part II, and

(b) appellate jurisdiction in accordance with the provisions of Part III.

2. The decisions of the Court shall be final.

3. The Seat of the Court shall be in the territory of a Contracting Party as determined by a qualified majority of the Contracting Parties but, as circumstances warrant, the Court may sit in the territory of any other Contracting Party.

4. The Government of the Contracting Party in whose territory the Seat of the Court is situated shall provide suitable accommodation for the Seat of the Court and the offices of the Commission and shall conclude with the Court and the Commission an Agreement relating to the Seat of the Court and the offices of the Commission.

5. The Court shall have and use, as occasion may require, a seal having a device or impression with the inscription "The Caribbean Court of Justice".

Article IV
Constitution of the Court

1. Subject to paragraph 2 of this Article, the Judges of the Court shall be the President and not more than nine other Judges of whom at least three shall possess expertise in international law including international trade law.

2. The number of Judges, excluding the President, may be increased by the Heads of Government, upon the recommendation of the Commission.

3. The Court shall be duly constituted as set out in Parts II and III and may sit in such number of divisions as may be directed by the President but every Judge of the Court may sit in any division.

4. The determination of any question before the Court shall be according to the opinion of the majority of the Judges of the Court hearing the case.

5. Notwithstanding the provisions of this Article, the President may appoint one or more judges to determine interlocutory matters.

6. The President shall be appointed or removed by the qualified majority vote of three-quarters of the Contracting Parties on the recommendation of the Commission.

7. The Judges of the Court, other than the President, shall be appointed or removed by a majority vote of all of the members of the Commission.

8. The President shall take precedence over all other Judges of the Court and the seniority of the other Judges of the Court shall be determined in accordance with the dates of their appointment.

9. The appointment of the President shall be signified by letter under the hand of the Chairman for the time being of the Conference acting on the advice of the Heads of Government and the appointment of any other Judge of the Court shall be signified by letter under the hand of the Chairman of the Commission.

10. A person shall not be qualified to be appointed to hold or to act in the office of Judge of the Court, unless that person satisfies the criteria mentioned in paragraph 11 and -

(a) is or has been for a period or periods amounting in the aggregate to not less than five years, a Judge of a court of unlimited jurisdiction in civil and criminal matters in the territory of a Contracting Party or in some part of the Commonwealth, or in a State exercising civil law jurisprudence common to Contracting Parties, or a court having jurisdiction in appeals from any such court and who, in the opinion of the Commission, has distinguished himself or herself in that office; or

(b) is or has been engaged in the practice or teaching of law for a period or periods amounting in the aggregate to not less than fifteen years in a Member State of the Caribbean Community or in a Contracting Party or in some part of the Commonwealth, or in a State exercising civil law jurisprudence common to Contracting parties, and has distinguished himself or herself in the legal profession.

11. In making appointments to the office of Judge, regard shall be had to the following criteria: high moral character, intellectual and analytical ability, sound judgment, integrity, and understanding of people and society.

12. The Commission may, prior to appointing a Judge of the Court, consult with associations representative of the legal profession and with other bodies and individuals that it considers appropriate in selecting a Judge of the Court.

Article V
Establishment of the Regional Judicial and Legal Services Commission

1. There is hereby established a Regional Judicial and Legal Services Commission which shall consist of the following persons:

(a) the President who shall be the Chairman of the Commission;

(b) two persons nominated jointly by the Organisation of the Commonwealth Caribbean Bar Association (OCCBA) and the Organisation of Eastern Caribbean States (OECS) Bar Association;

(c) one chairman of the Judicial Services Commission of a Contracting Party selected in rotation in the English alphabetical order for a period of three years;

(d) the Chairman of a Public Service Commission of a Contracting Party selected in rotation in the reverse English alphabetical order for a period of three years;

(e) two persons from civil society nominated jointly by the Secretary-General of the Community and the Director General of the OECS for a period of

three years following consultations with regional non-governmental organisations;

(f) two distinguished jurists nominated jointly by the Dean of the Faculty of Law of the University of the West Indies, the Deans of the Faculties of Law of any of the Contracting Parties and the Chairman of the Council of Legal Education; and

(g) two persons nominated jointly by the Bar or Law Associations of the Contracting Parties.

2. Where any person or body required to nominate a candidate for appointment to the Regional Judicial and Legal Services Commission in accordance with paragraph 1, fails to make such nomination within thirty (30) days of a written request in that behalf, the nomination shall be made jointly by the heads of the judiciaries of the Contracting Parties.

3. (1) The Commission shall have responsibility for:

(a) making appointments to the office of Judge of the Court, other than that of President;

(b) making appointments of those officials and employees referred to in Article XXVII and for determining the salaries and allowances to be paid to such officials and employees;

(c) the determination of the terms and conditions of service of officials and employees; and

(d) the termination of appointments in accordance with the provisions of this Agreement.

(2) The Commission shall, in accordance with the Regulations, exercise disciplinary control over Judges of the Court, other than the President, and over officials and employees of the Court.

4. The term of office of members of the Commission, other than the Chairman shall be three years, but such members shall be eligible for re-appointment for another term of office.

5. The members of the Commission referred to in paragraph 1(b), (c), (d), (f) and (g) shall be appointed by letter under the hand of the President.

6. If the office of a member of the Commission, other than the Chairman is vacant or the holder thereof is unable to perform the functions of his office, a person may be appointed to perform the functions of that office for the unexpired term of the holder of the office or until the holder resumes office.

7. Subject to paragraph 13 of this Article, the Commission shall not be:

(a) disqualified from the transaction of business by reason of any vacancy in its membership and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present or to participate in those proceedings;

(b) disqualified from the transaction of business nor its proceedings invalidated by reason of the non-receipt by a member of the Commission, of a notice for a meeting of the Commission.

8. The Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under paragraph 3(1)(b) and (c) of this Article to any one or more of its members or to the Registrar.

9. A member of the Commission, other than the Chairman may, by writing under the hand of that member, addressed to the Chairman of the Commission, resign from the Commission.

10. The Commission shall, no later than 31 March in every year, submit to the Heads of Government, an Annual Report of its work and operations during the previous year.

11. The Registrar of the Court shall perform the functions of Secretary of the Commission and shall be the chief administrative officer of the Commission.

12. In the exercise of their functions under this Agreement, the members of the Commission shall neither seek nor receive instructions from any body or person external to the Commission.

13. A quorum for the transaction of business by the Commission shall consist of not less than six members of the Commission including the Chairman or, where the Deputy Chairman is presiding, the Deputy Chairman.

14. Subject to this Article, the Commission shall have power to regulate its own procedure.

Article VI
The First Appointment of the President the First Appointment of the President and Members of the Commission

1. For the purposes of the first appointment of the President and Commissioners and notwithstanding the provisions of paragraph 6 of Article IV, the members of the Commission appointed pursuant to the Agreement shall make a recommendation for the appointment of the President.

2. Notwithstanding the provisions of paragraphs 4 and 5 of Article V:

(a) the term of office of the members of the Commission appointed in accordance with paragraph 1 of this Article shall be one year; and

(b) the members of the Commission mentioned in sub-paragraph (a) of this paragraph shall be appointed by letter under the hand of the heads of the judiciary of the Contracting Parties.

Article VII
Legal Status of the Commission

1. The Commission shall possess full juridical personality including, in particular, full capacity to contract.

2. The privileges and immunities to be accorded the Commission and its members in the territories of the Contracting Parties shall be laid down in a Protocol to this Agreement.

3. The Contracting Parties undertake to make provision to ensure that the proceedings of the Commission shall not be enquired into in any Court.

Article VIII
Acting Appointments

1. If the office of President is vacant, or if the President is for any reason unable to perform the functions of that office, then, until some other person has been appointed to and has assumed the functions of that office or, as the case may be, until the President has resumed those functions, they shall be performed by the Judge of the Court who is most senior according to the date of his appointment and he shall be appointed by letter under the hand of the Chairman for the time being of the Conference.

2. When none of the other Judges is senior by appointment, the functions of President shall be performed by such one of the other Judges of the Court appointed by letter.

3. An appointment referred to in paragraph 2 shall be made in accordance with the advice of the Heads of Government tendered after consultations with the President and such other persons or bodies of persons as the Heads of Government may think fit.

4. If one of the Judges of the Court is acting as the President of the Court or if the office of a Judge of the Court, other than the President, is vacant or if such a Judge is for any reason unable to perform the functions of that office, then, until some other person has been appointed to act and has assumed the functions of that office or, as the case may be, until the Judge has resumed those functions, they shall be performed by a person qualified for appointment as a Judge of the Court to be appointed by the Commission by letter under the hand of the Chairman of the Commission.

5. The person appointed in accordance with paragraph 4 shall continue to perform the functions of the office until a person is appointed to the office and has assumed the functions thereof or, as the case may be, until the holder resumes office.

Article IX
Tenure of Office of Judges

1. The office of a Judge of the Court shall not be abolished while there is a substantive holder thereof.

2. Subject to the provisions of this Article, the President shall hold office for a non-renewable term of seven years or until he attains the age of seventy-two years, whichever is earlier, except that the President shall continue in office, if necessary, for a further period not exceeding three months to enable him to deliver judgment or to do any other thing in relation to any proceedings part-heard by him.

3. Subject to the provisions of this Article, a Judge of the Court shall hold office until he attains the age of seventy-two years, except that he shall continue in office, if necessary, for a further period not exceeding three months to enable him to deliver judgment or to do any other thing in relation to any proceedings part-heard by him.

4. A Judge may be removed from office only for inability to perform the functions of his office, whether arising from illness or any other cause or for misbehaviour, and shall not be so removed except in accordance with the provisions of this Article.

5. (1) Subject to Article IV, paragraph 5, the President shall be removed from office by the Heads of Government on the recommendation of the

Commission, if the question of the removal of the President has been referred by the Heads of Government to a tribunal and the tribunal has advised the Commission that the President ought to be removed from office for inability or misbehaviour referred to in paragraph 4.

(2) Subject to Article IV, paragraph 6, a Judge other than the President shall be removed from office by the Commission if the question of the removal of the Judge has been referred by the Commission to a tribunal; and the tribunal has advised the Commission that the Judge ought to be removed from office for inability or misbehaviour referred to in paragraph 4.

6. If at least three Heads of Government in the case of the President jointly represent to the other Heads of Government, or if the Commission decides in the case of any other Judge, that the question of removing the President or the Judge from office ought to be investigated, then -

(a) the Heads of Government or the Commission shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Heads of Government or the Commission, as the case may be, after such consultations as may be considered expedient, from among persons who hold or have held office as a Judge of a court of unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth, or in a State exercising civil law jurisprudence common to Contracting Parties, or a court having jurisdiction in appeals from any such court; and

(b) the tribunal shall enquire into the matter and advise the Heads of Government or the Commission, as the case may be, whether or not the President or the Judge ought to be removed from office.

7. The provisions of any law relating to the holding of commissions of inquiry in the Member State of the Caribbean Community where the inquiry is held shall apply as nearly as may be in relation to tribunals appointed under paragraph 6 of this Article or, as the context may require, to the members thereof as they apply in relation to Commissions or Commissioners appointed under that law.

8. If the question of removing the President or any other Judge of the Court from office has been referred to a tribunal under paragraph 6 of this Article, the Heads of Government in the case of the President, or the Commission, in the case of any other Judge of the Court, may suspend such Judge from performing the functions of his office, and any such suspension may at any time be revoked by the Heads of Government or the Commission, as the case may be, and shall in any case cease to have effect if the tribunal advises the Heads of Government or the Commission that the Judge ought not to be removed from office.

9. (1) The President may at any time resign the office of President by writing under the hand of the President addressed to the Chairman for the time being of the Conference.

(2) Any other Judge of the Court may at any time resign the office of Judge of the Court by writing under the hand of the Judge addressed to the Chairman of the Commission.

Article X
Oath of Office

1. A Judge of the Court shall not enter upon the duties of that office unless he has taken and subscribed the oath of office as set out in Appendix I to this Agreement.

2. The oath of office shall be taken and subscribed before the Head of State of any Contracting Party.

PART II

ORIGINAL JURISDICTION OF THE COURT

Article XI
Constitution of the Court

1. The Court, in the exercise of its original jurisdiction, shall be duly constituted if it consists of not less than three judges being an uneven number of judges.

2. The judges referred to in paragraph 1 shall possess the expertise necessary for the Court to adjudicate the matter.

3. The deliberations of the Court shall be under the authority and control of a Chairman, who shall be the most senior of the judges appointed by the President.

4. Notwithstanding paragraph 1, the original jurisdiction of the Court may be exercised by a sole judge appointed by the Chairman.

5. The decision of a sole judge exercising jurisdiction under paragraph 4 may, on application of a Party aggrieved, be reviewed by a panel comprising not more than five judges.

Article XII
Jurisdiction of the Court in
Contentious Proceedings

1. Subject To The Treaty, The Court Shall Have Exclusive Jurisdiction to hear and deliver judgment on:

(a) disputes between Contracting Parties to this Agreement;

(b) disputes between any Contracting Parties to this Agreement and the Community;

(c) referrals from national courts or tribunals of Contracting Parties to this Agreement;

(d) applications by nationals in accordance with Article XXIV, concerning the interpretation and application of the Treaty.

2. For the purposes of this part, "national courts" includes the Eastern Caribbean Supreme Court.

Article XIII
Advisory Opinions of the Court

1. The Court shall have exclusive jurisdiction to deliver advisory opinions concerning the interpretation and application of the Treaty.

2. Advisory opinions shall be delivered only at the request of Contracting Parties or the Community.

Article XIV
Referral to the Court

Where a national court or tribunal of a Contracting Party is seised of an issue whose resolution involves a question concerning the interpretation or application of the Treaty, the court or tribunal concerned shall, if it considers that a decision on the question is necessary to enable it to deliver judgment, refer the question to the Court for determination before delivering judgment.

Article XV
Compliance with Judgments of the Court

Member States, Organs, Bodies of the Community or persons to whom a judgment of the Court applies, shall comply with that judgment.

Article XVI
Compulsory Jurisdiction of the Court

1. Contracting Parties agree that they recognise as compulsory, ipso facto and without special agreement, the original jurisdiction of the Court provided for in Article XII.

2. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be determined by decision of the Court.

Article XVII
Law to be Applied by the Court in the
Exercise of its Original Jurisdiction

1. The Court, in exercising its original jurisdiction under Article XII(b) and (c), shall apply such rules of international law as may be applicable.

2. The Court may not bring in a finding of non liquet on the ground of silence or obscurity of the law.

3. The provisions of paragraphs (1) and (2) shall not prejudice the power of the Court to decide a dispute ex aequo et bono if the parties so agree.

Article XVIII
Intervention by Third Parties

1. Should a Member State, the Community or a person consider that it has a substantial interest of a legal nature which may be affected by a decision of the Court in

the exercise of its original jurisdiction, it may apply to the Court to intervene and it shall be for the Court to decide on the application.

2. Whenever the construction of a convention to which Member States and persons other than those concerned in the case are parties, is in question, the Registrar shall notify all such States and persons forthwith.

3. Every State or person so notified has the right to intervene in the proceedings; but if the right is exercised, the construction given by the judgment will be equally binding on all parties.

Article XIX
Application for Interim Measures

The Court shall have the power to prescribe if it considers the circumstances so require, any interim measures that ought to be taken to preserve the rights of a Party.

Article XX
Revision of Judgments of the Court in the Exercise of its Original Jurisdiction

1. An application for the revision of a judgment of the Court in the exercise of its original jurisdiction may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and to the party claiming revision: provided always that such ignorance was not due to negligence on the part of the applicant.

2. Proceedings for a revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognising that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

3. The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

4. The application for revision shall be made within six months of the discovery of the new fact.

5. No application for revision may be made after the lapse of five years from the date of the judgment.

6. Nothing in this Article shall affect the rights of third parties accrued since the delivery of the judgment mentioned in paragraph 1.

Article XXI
Rules of Court Governing Original Jurisdiction

1. The President shall, in consultation with five other Judges of the Court selected by him, establish rules for the exercise of the original jurisdiction of the Court.

2. Without prejudice to the generality of the preceding sub-paragraph, Rules of Court may be made for all or any of the following purposes -

(a) regulating the sittings of the Court, the selection of Judges for any purpose, and the period to be observed as a vacation in the Court and the transaction of business during any such vacation;

(b) regulating the pleading, practice, procedure, execution of the process of the Court and the duties of the officers of the Court;

(c) regulating matters relating to practice in the Court by Attorneys-at-Law, Legal Practitioners or advocates and the representation of persons concerned in any proceedings in the Court;

(d) providing for the summary determination of any matter which appears to the Court to be frivolous or vexatious or to be brought for the purpose of delay;

(e) regulating matters relating to the costs and the taxation thereof, of proceedings in the Court;

(f) providing for the delivery of judgments in an expeditious manner;

(g) prescribing forms and fees in respect of proceedings in the Court;

(h) prescribing the time within which any requirement of the rules of Court is to be complied with;

(i) regulating or prescribing or doing any other thing which may be regulated, prescribed or done by rules of Court.

Article XXII
Judgment of the Court to Constitute Stare Decisis

Judgments of the Court shall be legally binding precedents for parties in proceedings before the Court unless such judgments have been revised in accordance with Article XX.

Article XXIII
Alternative Dispute Resolution

1. Each Contracting Party shall, to the maximum extent possible, encourage and facilitate the use of arbitration and other means of alternative dispute resolution for the settlement of international commercial disputes.

2. To this end, each Contracting Party shall provide appropriate procedures to ensure observance of agreements to arbitrate and for the recognition and enforcement of arbitral awards in such disputes.

Article XXIV
Locus Standi of Private Entities

Nationals of a Contracting Party may, with the special leave of the Court, be allowed to appear as parties in proceedings before the Court where:

(a) the Court has determined in any particular case that the Treaty intended that a right conferred by or under the Treaty on a Contracting Party shall enure to the benefit of such persons directly; and

(b) the persons concerned have established that such persons have been prejudiced in respect of the enjoyment of the benefit mentioned in sub-paragraph (a) of this Article; and

(c) the Contracting Party entitled to espouse the claim in proceedings before the Court has:

(i) omitted or declined to espouse the claim, or

(ii) expressly agreed that the persons concerned may espouse the claim instead of the Contracting Party so entitled; and

(d) the Court has found that the interest of justice requires that the persons be allowed to espouse the claim.

PART III

APPELLATE JURISDICTION OF THE COURT

Article XXV
Appellate Jurisdiction of the Court

1. In the exercise of its appellate jurisdiction, the Court is a superior Court of record with such jurisdiction and powers as are conferred on it by this Agreement or by the Constitution or any other law of a Contracting Party.

2. Appeals shall lie to the Court from decisions of the Court of Appeal of a Contracting Party as of right in the following cases:

(a) final decisions in civil proceedings where the matter in dispute on appeal to the Court is of the value of not less than twenty-five thousand dollars Eastern Caribbean currency (EC$25,000) or where the appeal involves directly or indirectly a claim or a question respecting property or a right of the aforesaid value;

(b) final decisions in proceedings for dissolution or nullity of marriage;

(c) final decisions in any civil or other proceedings which involve a question as to the interpretation of the Constitution of the Contracting Party;

(d) final decisions given in the exercise of the jurisdiction conferred upon a superior court of a Contracting Party relating to redress for contravention of the provisions of the Constitution of a Contracting Party for the protection of fundamental rights;

(e) final decisions given in the exercise of the jurisdiction conferred on a superior court of a Contracting Party relating to the determinationof any question for which a right of access to the superior court of a Contracting Party is expressly provided by its Constitution;

(f) such other cases as may be prescribed by any law of the Contracting Party.

3. An appeal shall lie to the Court with the leave of the Court of Appeal of a Contracting Party from the decisions of the Court of Appeal in the following cases:

(a) final decisions in any civil proceedings where, in the opinion of the Court of Appeal, the question involved in the appeal is one that by reason of its

great general or public importance or otherwise, ought to be submitted to the Court; and

(b) such other cases as may be prescribed by any law of the Contracting Party.

4. Subject to paragraph 2, an appeal shall lie to the Court with the special leave of the Court from any decision of the Court of Appeal of a Contracting Party in any civil or criminal matter.

5. Nothing in this Article shall apply to matters in relation to which the decision of the Court of Appeal of a Contracting Party is, at the time of the entry into force of the Agreement pursuant to the Constitution or any other law of that Party, declared to be final.

6. The Court shall, in relation to any appeal to it in any case, have all the jurisdiction and powers possessed in relation to that case by the Court of Appeal of the Contracting Party from which the appeal was brought.

7. (1) The President shall in consultation with five other Judges of the Court selected by him, make Rules of Court for regulating the practice and procedure of the Court in exercise of the appellate jurisdiction conferred on the Court and, in relation to appeals brought before the Court, the practice and procedure of any court in respect of such appeals.

(2) Without prejudice to the generality of the preceding sub-paragraph, Rules of Court may be made for all or any of the following purposes -

(a) regulating the sittings of the Court, the selection of Judges for any purpose, and the period to be observed as a vacation in the Court and the transaction of business during any such vacation;

(b) regulating the pleading, practice, procedure, execution of the process of the Court and the duties of the officers of the Court;

(c) regulating matters relating to practice in the Court by Attorneys-at-Law or Legal Practitioners and the representation of persons concerned in any proceedings in the Court;

(d) prescribing the cases in which, and the conditions upon which an appellant in a criminal appeal to the Court shall be entitled to be present at the hearing of the appeal;

(e) providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or to be brought for the purpose of delay;

(f) regulating matters relating to the costs and the taxation thereof, of proceedings in the Court;

(g) providing for the delivery of judgments in an expeditious manner;

(h) prescribing forms and fees in respect of proceedings in the Court;

(i) prescribing the time within which any requirement of the rules of Court is to be complied with;

(j) regulating or prescribing or doing any other thing which may be regulated, prescribed or done by rules of Court.

PART IV

ENFORCEMENT, FINANCIAL AND FINAL PROVISIONS

Article XXVI
Enforcement of Orders of the Court

The Contracting Parties agree to take all the necessary steps, including the enactment of legislation to ensure that:

(a) all authorities of a Contracting Party act in aid of the Court and that any judgment, decree, order or sentence of the Court given in exercise of its jurisdiction shall be enforced by all courts and authorities in any territory of the Contracting Parties as if it were a judgment, decree, order or sentence of a superior court of that Contracting Party;

(b) the Court has power to make any order for the purpose of securing the attendance of any person, the discovery or production of any document, or the investigation or punishment of any contempt of court that any superior court of a Contracting Party has power to make as respects the area within its jurisdiction.

Article XXVII
Officials and Employees of the Court

1. There shall be a Registrar of the Court, Deputy Registrars and other officials and employees of the Court as the Commission may consider necessary. The holders of those offices shall be paid such salaries and allowances and shall have such other terms and conditions of service as may, from time to time, be determined by the Commission.

2. With the concurrence of the competent authority of a Contracting Party, the Commission may appoint the Registrar of a superior court in the territory of that Contracting Party to be a Deputy Registrar of the Court.

3. The Commission may, by directions in writing and subject to such condition as it thinks fit, delegate any of its powers under paragraph 1 to any one or more of its members or to the Registrar of the Court.

4. For the purposes of paragraph 2 of this Article, "competent authority" means the authority vested with power to make appointments to the office of Registrar of a superior court and to exercise disciplinary control over persons holding or acting in that office.

Article XXVIII
Financial Provisions

1. The expenses of the Court and of the Commission, including the cost of the maintenance of the Seat of the Court and the remuneration and allowances and other payments referred to in Article XXVII and this Article, shall be borne by the Contracting Parties in such proportions as may be agreed by the Contracting Parties. The assessed contributions to be paid by a Contracting Party shall be charged by law on the Consolidated Fund or public revenues of that Contracting Party.

2. (1) Subject to this Agreement and with the approval of the Conference, the Commission shall determine the terms and conditions and other benefits of the President and other Judges of the Court.

(2) The salaries and allowances referred to in sub-paragraph 1 shall be set out in Appendix II to this Agreement.

(3) Notwithstanding the provisions of Article XXXII, the Commission may, with the approval of the Conference, make regulations to amend Appendix II.

3. The salaries and allowances payable to the President and the other Judges of the Court and their other terms and conditions of service shall not be altered to their disadvantage during their tenure of office. For the purposes of this paragraph, in so far as the terms and conditions of service of any Judge of the Court depend upon the option of that Judge, the terms for which that Judge opts shall be taken to be more advantageous to that Judge than any other terms and conditions for which the Judge might have opted.

4. There shall be paid to members of the Commission, other than the Chairman, the actual travelling expenses and subsistence allowance at such rate per day as the Heads of Government may, from time to time, decide for the purpose of performing official duties as a member of the Commission.

Article XXIX
Right of Audience

Attorneys-at-Law, legal practitioners or advocates duly admitted to practise law in the courts of a Contracting Party shall, subject to the powers of the Court, not be required to satisfy any other condition in order to practise before the Court wherever the Court is sitting in exercise of its jurisdiction and they shall enjoy the privileges and immunities necessary for the independent exercise of their duties.

Article XXX
Privileges and Immunities

The privileges and immunities to be recognised and granted by the Contracting Parties to the Judges and officers of the Court necessary to protect their independence and impartiality shall be laid down in a Protocol to this Agreement.

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Article XXXI
Regulations

The Commission may make Regulations -

(a) governing the appointment, discipline, termination of employment and other terms and conditions of service and employment for –

(i) Judges, other than the President; and

(ii) officials and employees of the Court;

(b) prescribing the procedure governing the conduct of disciplinary proceedings;

(c) generally giving effect to this Agreement.

Article XXXII
Amendment

1. This Agreement may be amended by the Contracting Parties.

2. Every amendment shall be subject to ratification by the Contracting Parties in accordance with their respective constitutional procedures and shall enter into force one month after the date on which the last Instrument of ratification or accession is deposited with the Secretary-General (hereinafter in this Agreement referred to as "the Depositary").

Article XXXIII
Signature

This Agreement is open for signature by any of the States or countries referred to in Article II.

Article XXXIV
Ratification

This Agreement shall be subject to ratification by the signatory countries in accordance with their respective constitutional procedures. Instruments of ratification shall be deposited with the Depositary who shall transmit certified copies to the Government of each Contracting Party.

Article XXXV
Entry into Force

This Agreement shall enter into force upon the deposit of Instruments of Ratification or Accession in accordance with Article XXXIV, by at least three Member States of the Caribbean Community.

Article XXXVI
Accession

1. Any country to which paragraph (b) of Article II applies may accede to this Agreement and become a Contracting Party on such terms and conditions as the

Conference may decide.

2. Instruments of Accession shall be deposited with the Depositary.

Article XXXVII
Withdrawal

1. A Contracting Party may withdraw from this Agreement by giving three years' notice in writing to the Depositary who shall promptly notify the other Contracting Parties accordingly and the withdrawal shall take effect five years after the date on which the notice has been received by the Depositary, unless the Contracting Party before the withdrawal becomes effective notifies the Depositary in writing of the cancellation of its notice of withdrawal.

2. A Contracting Party that withdraws from this Agreement undertakes to honour any financial or other obligations duly assumed as a Contracting Party; this includes any matter relating to an appeal filed before withdrawal becomes effective.

Article XXXVIII
Implementation

The Contracting Parties shall take all necessary action, whether of a legislative, executive or administrative nature, for the purpose of giving effect to this Agreement. Such action shall be taken as expeditiously as possible, and the Secretary-General shall be informed accordingly.

Article XXXIX
Reservations

A reservation may be entered to Article XXV of this Agreement with the consent of the Contracting Parties.

IN WITNESS WHEREOF the undersigned duly authorised in that behalf by their respective Governments have executed this Agreement.

APPENDIX I

I _____ do hereby swear (or solemnly affirm) that I will faithfully exercise the office of President/Judge of the Caribbean Court of Justice without fear or favour, affection or ill-will and in accordance with the Code of Judicial Conduct.

(so help me God (to be omitted in affirmation)).

APPENDIX II

			Annual Salary
1.	(a) The President of the Court	-	[EC$]
	(b) Any other Judge of the Court	-	[EC$]

2. Judges of the Court shall be paid superannuation benefits in respect of their service as Judge of the Court as follows -

(a) less than 5 years' service	-	a gratuity of 20 per cent of the Judge's pensionable emoluments at the time of retirement for every year of service;
(b) 5 to 10 years' service	-	a monthly pension equivalent to two-thirds of the Judge's monthly pensionable emoluments at the time of retirement.
(c) more than 10 years' service	-	a monthly pension equivalent to the Judge's monthly pensionable emoluments at the time of retirement.

3. Every Judge of the Court shall be paid a monthly allowance for housing to be determined by the Heads of Government of the Contracting Parties in respect of the Judge's occupation of a fully furnished residence.

4. Every Judge shall be paid a monthly allowance to be determined by the Heads of Government of the Contracting Parties to meet the expenses incurred by the Judge in respect of the employment of a chauffeur.

5. Every Judge shall be paid a travelling allowance to be determined by the Heads of Government of the Contracting Parties in respect of the use by the Judge of a motor car owned by the Judge on official duty, subject to the conditions of payment as determined by the Heads of Government of the Contracting Parties.

6. Every Judge of the Court shall be provided with telephone services at the Judge's residence, without charge, except for unofficial overseas telephone calls.

7. Every Judge of the Court shall be paid a subsistence allowance to be determined by the Heads of Government of the Contracting Parties for each day on which the Judge is on official duty in the territory of a Contracting Party other than that of the seat of the Court.

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THE REVISED TREATY OF CHAGUARAMAS

The Preamble to the Revised Treaty of Chaguaramas 2001, indicates that the development paradigm of the Community had undergone far-reaching modification both in terms of the objectives of the Community and the procedures identified for their achievement. The first preambular paragraphs address the deepening of the economic integration process through the establishment of the CARICOM Single Market and Economy (CSME) for the achievement of sustained economic development based, *inter alia*, on international competitiveness. The implications of globalisation and liberalisation for international competitiveness and the mechanism for reaching decisions and their implementation in the new dispensation are also addressed. The following preambular paragraphs adroitly enlarge on these themes pointing to the need for the establishment of a sound macro-economic environment, based, *inter alia*, on the unimpeded movement of factors throughout the economic area to facilitate production integration, enterprise development, economic efficiency, international competitiveness and export-oriented production of goods and services. All of the above will be facilitated by the establishment of supportive infrastructure, both hard and soft, the achievement of international standards, the protection of competition and a credible system of disputes settlement on a transparent, definitive and authoritative basis. Collectively, these measures would secure a fundamental transformation and restructuring of the Caribbean Community from a conservative, inward-looking, protectionist, functionally constrained organisation to an open, liberalised, efficient, internationally competitive, outward-looking and deliberatively flexible institution.

In addition to establishing the Community and identifying its membership and objectives, Chapter One of the Revised Treaty addresses some important principles guiding the operations of the organisation. Foremost among these is the principle of non-discrimination set out in Article 7. This principle, perceived to be indispensable for the efficient functioning of the CSME, requires Member States to accord national treatment to citizens of other Member States in their jurisdiction pursuant to the rights accorded them under the Agreement. Another important principle is special and differential treatment for the weaker economies of the collectivity. In order to facilitate the application of this principle, Member States are classified in Article 4 into more developed and less developed countries. In this connection, it is interesting to note that the voting procedure identified in Article 5 for modifying the status of Member States is a significant departure from the unanimity principle which governs decision-making in the Conference.

The objectives of the Community identified in Article 6 are to improve standards of living and work; the full employment of labour and other factors of production;

accelerated, coordinated and sustained economic development and convergence; expansion of trade and economic relations with third States; enhanced levels of international competitiveness; organisation for increased production and productivity; achievement of a greater measure of economic leverage and effectiveness of Member States in dealing with third States, groups of States and entities of any description and the enhanced co-ordination of Member States' foreign and foreign economic policies and enhanced functional co-operation.

Chapter Two of the Revised Treaty of Chaguaramas addresses the institutional arrangements of the Caribbean Community, including the CSME. Suggesting itself for careful examination is the juridical structure of the Caribbean Community established which differs significantly from its predecessor, the Caribbean Community and Common Market. The latter was a juridical hybrid consisting of the Caribbean Community as a separate legal person from the Common Market which had its own discrete legal personality.[1] Indeed, the juridical separation of these two institutions was emphasised by the elaboration of two discrete legal instruments: the Treaty Establishing the Caribbean Community and the Agreement Establishing the Common Market (which was later annexed to the Treaty and designated the Common Market Annex).

The significance of this institutional arrangement is to be found in the fact that it facilitated States joining the Community without being parties to the Common Market regime. As noted above, The Bahamas availed itself of this opportunity to join the Caribbean Community but to opt out of the economic integration arrangements which were not perceived, at the material time, to accord with their national interest. The Bahamas did not have an income tax regime and much of its revenues were derived from indirect taxation. Consequently, an integration regime moving towards the progressive abolition of tariffs was not expected to have any significant appeal for The Bahamas. The Bahamas, however, signed Protocol I amending the original Treaty prior to the integration and consolidation of the Protocols into the Revised Treaty and entered a reservation in respect of the CSME with the concurrence of the other parties to the regime. Consequently, the situation obtaining at present appears to be in the nature of a juridical paradox since, in the first place, a reservation in respect of the CSME might be construed to be in conflict with the purpose and object of the Treaty and, in the second place, the Caribbean Community and the CSME are juridically, institutionally and economically indistinct.

The status of the Caribbean Community is another important consideration. The Caribbean Community, despite its misleading nomenclature, is an association of sovereign States.[2] Indeed, given the nature of political developments predating the establishment of CARICOM in 1973, it is difficult to understand how the founding fathers could have agreed to confer any other status on the organisation. Furthermore, the retention of the unanimity rule in voting procedures of the Conference, the highest decision-making body, is intended to emphasise the principle of sovereign equality of States and to scotch in the bud any lingering disposition at political integration. This status of the Community has imposed practical constraints on the pace of economic integration. In the European Union for example, the Council of Ministers and the Commission may take decisions and make regulations having direct effect for European Community nationals without the intervention of one or another national assembly of a Member State. However, all determinations of competent organs of the Caribbean Community are required to be enacted into local law by national assemblies before

they create rights or obligations for CARICOM nationals. Consequentially, the speed of the integration of the Caribbean Community is dictated by the pace of the slowest Member State in enacting and securing compliance with relevant determinations.[3]

The overriding rationale for the institutional arrangements characterising the Caribbean Community, including the CSME, appears to emanate from the determination of the West Indian Commission (WIC) that implementation paralysis and operational deficiencies were among the debilitating features of the Caribbean Community. Reacting to this determination, the Conference, at its Special Meeting to consider the WIC Report, *inter alia*:

> *recognised*, in the light of the foregoing, the need to strengthen the institutional capacity of, and improve the implementation process in, the Community ....
>
> *agreed* that each Member State would designate a Minister with specific responsibility for CARICOM Affairs, and that those Ministers would constitute a Caribbean Community Council of Ministers as the second highest Organ in the Community.[4]

In the perception of the CARICOM Secretariat, these determinations of the Conference had 'implications for the structure and functioning of the existing organs and institutions of the Community'. On the basis of this perception, the CARICOM Secretariat proceeded to propose an institutional structure for the Community that would differ fundamentally from the structure existing in 1993 and which would reject the important proposal of the WIC for the establishment of a Caribbean Commission to expedite the implementation of Community decisions.[5] Apart from establishing a Community Council of Ministers as the second highest decision-making body of the Community with operational oversight of the CSME, it was proposed that the thirteen ministerial standing committees, designated institutions of the Community, would be replaced by four ministerial organs and three bodies in the new dispensation. The Conference would retain its position of pre-eminence as the highest decision-making organ in which the unanimity rule, the juridical expression of the sovereign equality of States, would prevail. Another proposed innovation in the organisational structure was the establishment of a Bureau of the Conference to, *inter alia,* provide

> interim guidance ... between plenary meetings, dealing ad referendum to (sic) plenary on matters of importance requiring speedy resolution at the highest level, clearing implementation blockages referred for consideration by the Ministerial Councils or the Secretary-General, and for conflict resolution.[6]

The Bureau was also mandated to oversee the work of the Intergovernmental Task Force (IGTF) established by the Conference at its Special Meeting in 1992 to supervise the revision of the original Treaty of Chaguaramas. In examining the proposals for the remit of the Community Council of Ministers, the IGTF determined that the tasks assigned to the Community Council of Ministers did not appear to justify its elevation to the status of the second highest organ of the Community. In the premises, it was decided that the Community Council should have responsibility for the functioning of the CSME.[7]

In proposing the establishment of three Ministerial Councils in place of the numerous Standing Committees existing in the old dispensation, the CARICOM Secretariat was probably influenced by the experience of the European Union whose Council of Ministers changed portfolio representation according to the issues to be deliberated and determined. The approach recommended was expressed to rationalise, upgrade and improve the organisational efficiency of the current situation of sectoral Ministerial Institutions, e.g. Standing Committee of Ministers responsible for Agriculture ...[8]

The proposed structure was seen to have several advantages in terms of not having to establish a new institution to address every new important programme area, addressing the current situation in the Community where ministers tended to have responsibility for more than one programme area and allowing for a greater interface between cross-cutting issues and ministerial representatives. The three organs originally proposed were the Council for Trade and Economic Development (COTED), the Council for Foreign and Community Relations (COFCOR) and the Council for Human and Social Development (COHSOD). However, at the prodding of Prime Minister Owen Arthur of Barbados, who had responsibility for finance, a fourth organ, the Council for Finance and Planning (COFAP), was added. Generally, the issues for which the Councils have responsibility are sometimes quite diverse. It was assumed, however, that the proposed structure would result in enhanced decision-making, less meetings and a consequent saving to Member States in terms of overseas representation at CARICOM meetings. In the final analysis, however, the effectiveness of the proposed structure is likely to be determined by the skill and imagination brought to bear on the structuring of agendas for ministerial meetings and the preparation of national representatives for such meetings.

Three Committees are to complement the work of the ministerial organs. These Committees are the Legal Affairs Committee, the Budget Committee and the Committee of Central Bank Governors, designated Bodies in the Revised Treaty of Chaguaramas, and although the proposed structure constituted in fact the downgrading of regional Attorneys-General and Ministers of Legal Affairs, the Legal Affairs Committee appears to be one of the most active and productive institutions which has undoubtedly proved its worth in the new dispensation and is likely to continue to play a defining role in the functioning of the CSME.

The essential thrust of the decision-making procedures in the organs of the Community was in the direction of a dynamic equilibrium and this is demonstrated in the voting procedures agreed for decision-making in the various organs of the Community.[9] However, the unanimity rule was relaxed to the extent that abstentions in an amount of no more than one-quarter of the membership did not operate to impair the validity of decisions. The requirement of unanimity in the Conference, far from operating as a constraint on policy formulation, was perceived as ensuring that decisions of this body addressed genuine concerns of Member States. Voting in other organs of the Community is not ordinarily constrained by the unanimity principle. This was intended to ensure that the pace of economic integration in the Community was not dictated by the most recalcitrant Member State. Furthermore, by allowing Member States to opt out of decisions, provided the objectives of the Community were not compromised, was intended to encourage circles of integration.[10] Postulated in other terms, this arrangement could result in the existence of various integration regimes in the Community at any given point in time. Such an arrangement appears to be no different

from that existing in the European Union and which allowed the United Kingdom to opt out of the social policy and both Denmark and the United Kingdom not to be parties to the European single currency regime. Finally, the voting procedures applicable in Community organs allows a Member State to enjoy veto powers where such a Member State could mobilise the support of two-thirds of the Membership in support of its critical well-being.[11] All these arrangements are intended to ensure that the integration movement continues to deepen at a pace that would not pose a threat to the economic or political equilibrium of other Member States. Compared to the procedures for decision-making in the old regime, the procedures set out in Chapter Two of the Revised Treaty make for much greater flexibility with probable beneficial consequences for the structured and expeditious deepening of the regional integration movement.

An important, relatively inconspicuous dimension of the institutional arrangements proposed for the new dispensation is to be found in Article 26 of the Revised Treaty which speaks to the consultative process. This Article obliges the Community Council assisted by the Secretary-General of the Community, 'in collaboration with competent authorities of Member States, to establish and maintain an efficient system of consultations at the national and regional levels'. The provisions of this Article were undoubtedly inspired by the WIC's finding that implementation was the Achilles heel of the integration movement. For more often than not, implementation paralysis is a function of inadequate consultations prior to the taking of determinations resulting in uninformed and oftentimes unimplementable decisions. Indeed, given the perceived importance of consultations, the Community Council of Ministers was tasked with establishing 'a system of regional and national consultations in order to enhance the decision-making and implementation processes of the Community.'[12] In the meantime, the Secretariat has established a Technical Advisory Services Unit (TASU) to assist Member States in setting up the administrative infrastructure to discharge Treaty obligations, including implementation of decisions.

Another important development in the new dispensation is the provision of a sanction for non-payment of contributions to the regular budget of the Community.[13] Sanctions for non-compliance with treaty obligations are not readily accommodated in the relations of CARICOM countries *inter se*. Consequently, even though Article 17(2) constituted a new departure in intra-CARICOM relations, the loss of voting power as a sanctioning process of prescription does not extend to 'matters relating to the CARICOM Single Market and Economy'. In effect, the sanction is more illusory than real, since the CSME bulks large in almost every dimension of the Caribbean Community. However, the issue of sanctions is likely to assume greater importance in the institutional arrangements of the Community, especially with the establishment of the proposed Caribbean Court of Justice.

Before terminating discussion on the voting procedures of the Community, attention should be drawn to Article 27(4) which succinctly encapsulates the idea of circles of integration within the same regional regime. The result to be achieved by the device of opting out of decisions on the satisfaction of agreed conditions would not be unlike that in the European Union which allows for opting out of the social contract and the single currency.

The CARICOM Single Market and Economy (CSME) which is integral to the Caribbean Community is an attempt on the part of the independent Member States of the Caribbean Community to superimpose a single market and a single economic space

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on politically autonomous jurisdictions, given that CARICOM is an association of sovereign States. The Single Market is to be created for all practical purposes by unifying the exiguous markets of all Member States. Chapter Three of the Revised Treaty addresses integration of the markets for investments, services and capital. In the single market, buyers and sellers from any part of the Community will be entitled to transact business in any part of the integrated market by a unified or harmonised system of disciplines or practices. Consequently, an important dimension of the new integration arrangements will be unified or harmonised legislation addressing every aspect of economic activity in the market area. Consider the provisions of Article 74(2) of the Revised Treaty in this context. In the Single Market and Economy, it is proposed that productive factors will be free to move unimpeded to any part of the market area where they can be most efficiently employed - hence the right of establishment, the right to provide skilled services and the right to move capital. An important exception in this context, however, relates to the free movement of labour, which has been identified in Article 45 as a long-term goal or objective. It is also useful to note that the main ingredients of a single economy namely, unification of monetary, fiscal and exchange rate policies and, ultimately, a single currency appear to be eluding the agenda of competent decision-makers . Consequently, the achievement of a single economy, like the free movement of labour, appears to be a long-term goal rather than a viable short-term objective.

Since, however, the Caribbean Community is in fact and in law an association of autonomous political and economic entities, the creation of a single market and a single economy is perceived to require complex and diverse institutional arrangements and programmes in order to remove a variety of restrictions designed to benefit the nationals of one or another political entity but which, collectively, effectively frustrate or impede the free movement of factors which characterise a single national economy. Foremost among these would be the unrestricted movement of capital.[14] In the context of the Caribbean Community, it is proposed to achieve this objective in stages, commencing with the free convertibility of national currencies. And although the Revised Treaty appears to be silent on this point, there is a decision of the Conference requiring each Member of the Caribbean Community to convert the currencies of one another at prevailing market rates. In fact, however, free convertibility of currencies in the Caribbean Community is more a legal than an economic reality due to the general ignorance of the populace about this requirement, the omission of nearly all national jurisdictions to comply, and the existence of fixed and floating exchange rates which complicates the issue. Currently, Barbados, Belize and the Member States of the OECS maintain fixed exchange rates, while Guyana, Jamaica, Suriname and Trinidad and Tobago have floating exchange rates. One far-reaching consequence of this dual exchange rate system is uncertainty about the values of floating currencies on a daily basis and the practice of financial institutions to hedge against downward volatility in currency values resulting in high transaction costs and disinclination to convert at a loss. Of the two available options- the introduction of fixed exchange rates throughout the Community or the introduction of a single currency, neither appear suitable to the CARICOM situation. Both require a degree of fiscal discipline well beyond the capacity of political directorates. In the final analysis, the most formidable constraint against the adoption of either course of action, especially among the Member States with floating currency regimes, is political. In the meantime, decision-makers have agreed to facilitate

capital movements by a variety of measures. In the short-term these measures would include the removal of restrictions on specified capital transactions[15] coupled with free currency convertibility and voluntary adherence to agreed convergence criteria. In the medium and long term, what will be required are integration or unification of capital markets, harmonisation or unification of investment policies and internal tax systems, the elimination of exchange controls among Member States and, generally, peremptory convergence of macro-economic policies and, ultimately, monetary union.

In terms of market integration, Chapter Five of the Revised Treaty incorporates the previous arrangements for a common external tariff and rules of origin[16] coupled with an aggressive move to eliminate lingering impediments to the free movement of goods. Other supportive measures include harmonisation of customs laws and administration and the laws relating to dumping and subsidies.[17]

In this latter respect, Member States of CARICOM were required to move expeditiously in order to comply with their obligations under the Agreement on Subsidies and the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade, both of which comprise integral elements of the World Trade Organisation regime. In this connection, the CARICOM Secretariat has already prepared model legislation on subsidies and dumping for enactment by Member States.[18] The relevant legislation establishes a regime for members of the Caribbean Community on the one hand and another for CARICOM Member States and third States.[19] Integration of the market for goods will be further enhanced by the establishment of institutional arrangements for regional standards and technical regulations in the form of a new regional institution - the CARICOM Regional Organisation for Standards and Quality (CROSQ).[20] Complementing these regimes is the regime for the protection of competition, consumer welfare and the elimination and sanctioning of restrictive business practices which prevent, restrict or distort the trade in goods or exploit dominant market positions by establishing barriers to the entry of new competitors. Currently, the revised Treaty does not address the issue of free circulation except to record the commitment of Member States to treat with this matter in a separate Protocol to be elaborated in future.[21]

The CSME also envisages the integration of the regional market for services. In this context, however, competent decision-makers have decided to move with some degree of caution and circumspection, given national paranoia about the vulnerability of various island economies to an unrestricted influx of unskilled labour in search of job opportunities. Consequently, Article 46(1) of the revised Treaty merely replicates earlier decisions of the Conference to accord Community graduates and certain skilled nations (media workers, sports persons, artistes and musicians) the right to move and work freely in the jurisdictions of Member States. The measures adopted in this context are expressly recognised as constituting 'a first step towards achieving the goal set out in Article 45'[22] And in order to facilitate the free movement of persons within the contemplation of this Article, Member States are required to 'establish appropriate legislative, administrative and procedural arrangements ....'[23] The trade in services was further liberated by the right of establishment accorded to nationals engaging in 'non-wage-earning activities of a commercial, industrial, agricultural, professional or artisanal nature.'[24] Supportive measures would include identification and removal of restrictions on the provision of approved services,[25] including the requirement for work permits and the enactment of legislation at the national level in order to establish equivalency, accreditation or mutual recognition of certificates.[26] Facilitation of the movement of

skills, however, must be seen to require the right of persons desiring to relocate in other jurisdictions of the Community to preserve and transfer such social security benefits as might have been earned and acquired in any given jurisdiction. This issue has already been addressed and administrative arrangements are being established in various Member States to provide for the smooth transfer of social security benefits across national jurisdictions.[27] Additionally, there would be a need to co-ordinate national social policies in the Community.

Another important dimension of the CARICOM single economy is the right of establishment accorded to nationals of the Community. This right includes, on the one hand, entitlement of independent contractors to offer their services for valuable consideration and, on the other, the right to establish and manage economic enterprises in any national jurisdiction.[28] The exercise of the right of establishment must be considered in the context of the removal of restrictive business practices. For in the final analysis, the enjoyment of the right of establishment could be emasculated by business practices of competitors which prevent, restrict or distort competition or constitute the abuse of dominant market positions. Consequently, institutional arrangements to control and eliminate anti-competitive business practices and to promote consumer welfare in the Community assume added significance.[29] Other measures of importance in this context must speak to harmonisation of corporate taxation,[30] the elimination of double taxation[31] and the harmonisation of laws related to intellectual property rights.[32] These aspects of the CSME may be addressed in greater detail by perusing the relevant provisions of the Revised Treaty set out in this Section. It should be noted however, that Article 239(c) of the Revised Treaty identifies, for future elaboration, treaty provisions on 'rights contingent on establishment, provision of services and movement of capital in the Community.' What is contemplated here is the right to access social services which must be recognised and granted by host States in order to prevent substantive rights from being rendered illusory. This issue was not ventilated during negotiation and elaboration of the Protocols amending the original Treaty of Chaguaramas but was raised by the Prime Minister of Barbados at the Special Consultations on the CSME held in St. Phillip, Barbados on November 20 to 21, 2000. It is generally recognised in the Community, however, that a satisfactory resolution of this issue is important for the smooth and successful functioning of the Single Market and Economy.

Facilitation of the movement of factors in the Caribbean Community is only one important dimension of a grand design to effect a significant paradigm shift in regional economic development. This paradigm shift is unequivocally emphasised in Chapter Four of the Revised Treaty whose expressed goal in terms of Community industrial policy is market-led, internationally competitive and sustainable production of goods and services for the Region's economic and social development.[33] This is to be achieved through, *inter alia*, the co-ordination of national industrial policies, the development of product and factor markets, the development of supportive institutional infrastructure and cross-border integration of production processes.[34] Supportive of these measures are policies to promote small enterprise development,[35] the development of the services sector,[36] research and development,[37] the establishment of a regime to protect intellectual property,[38] human resource development,[39] the integrity of the environment,[40] and a congenial investment climate including the establishment of enabling legislative, financial and social infrastructure.

Having addressed the essential requirements for production of internationally competitive goods and services, consideration is given to the conditions for both intraregional trade and trade with third States. The trade regime addressed in Chapter Five of the Revised Treaty is primarily designed to liberalise trade among the Member States of the Community and by expanding intraregional trade through flexible rules of origin criteria and the establishment of a flexible common external tariff. Upon entry into force of the Revised Treaty, Member States are precluded from introducing in their territories new restrictions on imports or exports of Community origin except as provided in the instrument.[41] Member States are also required to facilitate trade liberalisation among themselves by refraining from trade policies and practices designed to, or having the effect of, distorting competition, frustrating the free movement of goods or otherwise nullifying or impairing benefits to which other Member States are entitled under the Revised Treaty. Of course, it goes without saying that the imposition of duties on goods qualifying for Community origin treatment, or the imposition of discriminatory internal charges on imports,[42] or the application of quantitative restrictions thereon are all prohibited.[43]

In applying the common external tariff, Member States have agreed on a measure of flexibility which, in the present submission, encourages reduction or suspension of the tariff. The relative ease with which applications for suspension of the common external tariff are granted should constitute an issue of concern meriting serious examination by competent authorities.[44] More importantly, it has not apparently occurred to any one that applications for suspension provide a window of opportunity in terms of establishing what extra-regional imports for manufacturing purposes could be produced in the Region. In fact, there is good reason to believe that some regional manufacturers establish technical requirements for a variety of inputs in order to facilitate their importation from extra-regional sources thereby frustrating initiatives for regional production.

Granting that the Member States of the Community were galvanised into action to establish a CSME by the real prospect of losing protected markets in Europe for their agricultural exports, it is not surprising that far-reaching reforms in agriculture bulked large in the initiative to deepen and enlarge the integration movement. Consequently, the major goal of Part II of Chapter Four of the Revised Treaty has been expressed to be the transformation of agriculture through diversification of agricultural production, intensification of agro-industrial development, expansion of agri-business and the production of agricultural commodities on an internationally competitive and environmentally sustainable basis.[45] For the achievement of this goal, enabling policies are contemplated in the areas of human resource development, research and development and adaptation of relevant technologies, marketing of agricultural commodities and in both fisheries and forestry management and development.

Chastened by the egregious omission to address transportation in any constructive way in the original Treaty of Chaguaramas, Chapter Six of the Revised Treaty is devoted entirely to this issue, including port and terminal infrastructure and the provision of facilities supportive of intra-regional and international trade. For some time, commentators on the regional economy have continued to remark on the large import food bill of the Community and the absence of any viable and sustainable initiatives to exploit potential synergies of the tourism and agricultural industries. One contributing

factor in this context is the absence of supportive transportation infrastructure to facilitate the movement of perishable agricultural produce intraregionally. In addition, the absence of appropriate post-harvest technologies has impeded export promotion of agricultural produce. Chapter Six addresses these constraints with a view to finding appropriate solutions.

Since at the level of the ACP/EU negotiations and those relating to the World Trade Organisation and the Free Trade of the Americas, CARICOM Member States have been advancing claims for special and differential treatment for smaller economies, the requirement of consistency would appear to advise similar consideration for less viable and more vulnerable economies of the Caribbean Communities. In the premises, Chapter Seven addresses disadvantaged countries, regions and sectors. In this connection, it should be mentioned that some Member States, particularly those of the OECS were entering the CSME with an inherent disadvantage occasioned by small size, openness, undifferentiated economies and vulnerability to external shocks. Similarly, it was envisaged that special and differential treatment would be required for Member States requiring special support measures of a transitional or temporary nature occasioned by an adverse impact of entry into the CSME, or temporary low levels of economic development, or classified as highly indebted poor countries. It was also envisaged that special and differential treatment might be required for regions or sectors within more viable economies where the operation of the CSME might have impacted adversely on their economic well-being.

Competent decision-makers also recognised the need to protect competition and consumer welfare if the benefits expected from the establishment of the CSME were to be realised. The original Treaty of Chaguaramas did provide for the regulation and control of restrictive business practices.[46] However, the provisions of this Article appear to have been a dead letter since no Member State had taken the trouble to enact them into law and administrative and institutional arrangements to protect competition and the consumer were conspicuous by their absence. Such diffidence on the part of competent decision-makers was perhaps permissible in a situation where national jurisdictions were still in a position to protect national enterprises from foreign competition. However, it would be unacceptable in a situation where initiatives were being taken to create a single economic space and rights of establishment to provide services were being accorded to non-nationals. Consequently, Chapter Eight of the Revised Treaty is largely devoted to the establishment of rules of competition and consumer protection and to sanctions for the breach of those rules. Generally, these rules are designed to prohibit business practices which prevent, restrict or distort competition or allow one or another competitor to abuse a position of dominance in the market. Recognising, however, that rules of competition applicable to relatively small unviable economies may require adjustment when stronger competitors from third States vie for space in the regional markets, provision is made for competent authorities to take appropriate safeguard measures. The regime provides for the creation of a Regional Competition Commission[47] to deal with cross-border infractions of the rules of competition and envisages the establishment of national competition authorities to address anti-competitive business conduct within national jurisdictions.[48]

Finally, the provisions of the Revised Treaty address the important issue of disputes settlement. The absence of a viable disputes settlement regime undoubtedly hampered the integration movement established by the original Treaty of Chaguaramas. This

omission did not prove to be fatal due to the restrictive range of rights accorded in the old dispensation and the employment of consultations in competent organs to address and resolve disputes. The Revised Treaty provides for a broad range of dispute settlement modes, including good offices, mediation, conciliation, consultations, arbitration and judicial settlement. Of these modes, the most far-reaching in terms of establishing a predictable corpus of applicable norms is judicial settlement, given provision for the establishment of a regional court with original and exclusive jurisdiction to pronounce definitively and authoritatively on various types of disputes concerning the interpretation and application of the Treaty.

The initial importance of the proposed Caribbean Court of Justice has been addressed in several publications.[49] It is sufficient to observe that in the absence of central supranational institutions in the Caribbean Community to impose, as required, uniformity in applicable norms and of an institution like the European Court of Justice to ensure harmony of applicable norms in varying jurisdictions, legal certainty is likely to be a certain casualty in the CARICOM Single Market and Economy with far-reaching negative consequences for the regional integration movement.

Provisions of the Revised Treaty designed to ensure uniformity in the norms applicable to the CSME are Article 211 conferring compulsory and exclusive jurisdiction on the Court; Article 214 which speaks to referrals to the Court; Article 215 requiring compliance with decisions of the Court; Article 216 whereby Member States submit to the jurisdiction of the Court; Article 211 identifying the law to be applied by the Court, and Article 221 requiring judgments of the Court to constitute *stare decisis*. Other disputes settlement modes are available to Member States, it being recognised that judicial settlement could be expensive and that Member States may only wish to employ this mode as a last resort or where the issues involved are of significant national importance.

The Member States of the Community as detailed in Article 3 are Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines, Suriname and Trinidad and Tobago. The Conference has agreed to the admission of Haiti to the Community but this country has not yet satisfied all the prescribed conditions for membership. Associate Members are the British Virgin Islands, Turks and Caicos Islands, and Anguilla. Bermuda and the Cayman Islands have recently applied for associate membership of the Community. Article 228 of the Revised Treaty confers full juridical capacity on the Community. Member States are also required to accord to the Community in their national jurisdictions the most extensive legal capacity accorded to legal persons under their laws including the capacity to acquire and dispose of movable and immovable property and to sue and be sued in its own name. The Community is also accorded extensive privileges and immunities in its Headquarters Agreement with Guyana and in a Protocol on Privileges and Immunities concluded by the other Member States of the Community.

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Notes

1. Consider in this context Article 20 of the Treaty Establishing the Caribbean Community and Article 63 of the Common Market Annex to the Treaty.
2. Duke E. Pollard, *CARICOM in the Millenium*, in The Caribbean Community: Beyond Survival, *op. cit.*, p.258.
3.
4. In the submission of the West Indian Commission: 'we must not proceed at the pace of the slowest; that those who are ready to move must do so - reserving a place for the others when they are ready.' Article 27(4) of the Revised Treaty attempted to address this concern of the West Indian Commission. See Duke Pollard, *op. cit.*, p.259.
5. See Paper entitled *Restructuring of the Organs and Institutions of the Caribbean Community* approved by the Fourteenth Meeting of the Conference of Heads of Government, Nassau, The Bahamas, July 1993 at p.1.
6. See *Time for Action*, Report of the West Indian Commission, 1992, p. _____.
7. *Restructuring the Organs and institutions of the Caribbean Community*, *op. cit.* at p.8.
8. Note in this context the provisions of Article 13(2) which read:

   > The Community Council shall, in accordance with the policy directions established by the Conference, have primary responsibility for the development of Community strategic planning and co-ordination in the areas of economic integration, functional co-operation and external relations.

9. *Restructuring of the Organs and Institutions of the Caribbean Community*. *Op. cit.*, at p.11.
10. *Vide*, e.g. Articles 27-29 of the Revised Treaty of Chaguaramas
11. *Vide* Article 27(4) of the Revised Treaty.
12. *Vide* Article 24(4) of the Revised Treaty.
13. *Vide* Article 13(4)(a) of the Revised Treaty.
14. *Vide* Article 27(2) of the Revised Treaty.
15. *Vide* Articles 39-42 of the Revised Treaty.
16. *Vide* Article 40 of the Revised Treaty
17. *Vide* Articles 82-84 of the Revised Treaty
18. *Vide* Parts III, IV and V of Chapter V of the Revised Treaty.
19. The draft Bill on Fair Competition and Consumer Protection and on Countervailing and Anti-Dumping Duties will be examined at the Fifth Ordinary Meeting of the Legal Affairs Committee to be convened in Port-of-Spain, Trinidad and Tobago from November 28 to 30, 2001.
20. See the Draft Countervailing and Anti-Dumping Act and, in particular, Chapter Eight thereof.
21. See also Article 67 of the Revised Treaty. The Agreement Establishing the CARICOM Organisation for Standards and Quality will be examined by the Legal Affairs Committee at its Fifth Ordinary Meeting scheduled to convene in Port-of-Spain, Trinidad and Tobago from November 25 to 30, 2001.
22. See 239(d) of the Revised Treaty of Chaguaramas
23. Article 45 records the commitment of Member States to 'the goal of free movement of their nationals within the Community'
24. Article 46(2) of the Revised Treaty
25. See Article 32(3) of the Revised Treaty.

26. *Vide* Article 37 of the Revised Treaty.
27. *Vide* Article 35 of the Revised Treaty
28. See, for example, the CARICOM Agreement on Reciprocal Social Security Benefits which entered into force on _____
29. *Vide* Articles 32, 33 and 34 of the Revised Treaty.
30. *Vide*, for example, Chapter 8 of the Revised Treaty.
31.
32.
33.
34.
35. *Vide* Article 52(3) and (8) of the Revised Treaty.
36. *Vide* Article 53 of the Revised Treaty.
37. *Vide* Article 54 of the Revised Treaty.
38. *Vide* Article 64 of the Revised Treaty.
39. *Vide* Article 66 of the Revised Treaty.
40. *Vide* Article 63 of the Revised Treaty.
41. *Vide* Article 65 of the Revised Treaty.
42.
43. *Vide* Articles 90 and 91 of the Revised Treaty.
44.
45. *Vide* Article 83(2) and (3).
46.
47. *Vide* Article 30 of the Treaty of Chaguaramas (1973)
48. *Vide* Article 171 of the Revised Treaty.
49. *Vide* Article 170(2) of the Revised Treaty.
50. *Vide*, e.g. D.E. Pollard, *The Caribbean Court of Justice: Challenge and Response* in *The Caribbean Community - Beyond Survival*, edited by Kenneth O. Hall, Ian Randle Publishers, Kingston 2001, pp. 277, *et seq.*; also *The Caribbean Court of Justice in Regional Economic Development*, Caribbean Community Secretariat, August

REVISED TREATY OF CHAGUARAMAS ESTABLISHING THE CARIBBEAN COMMUNITY INCLUDING THE CARICOM SINGLE MARKET AND ECONOMY

Preamble

The states parties to the Treaty establishing the Caribbean Community and Common Market signed at chaguaramas on 4 July 1973,

Recalling the Declaration of Grand Anse and other decisions of the Conference of Heads of Government, in particular the commitment to deepening regional economic integration through the establishment of the CARICOM Single Market and Economy (CSME) in order to achieve sustained economic development based on international competitiveness, co-ordinated economic and foreign policies, functional co-operation and enhanced trade and economic relations with third States;

Recognising that globalisation and liberalisation have important implications for international competitiveness;

Determined to enhance the effectiveness of the decision-making and implementation processes of the Community;

Desirous of restructuring the Organs and Institutions of the Caribbean Community and Common Market and redefining their functional relationships so as to enhance the participation of their peoples, and in particular the social partners, in the integration movement;

Conscious of the need to promote in the Community the highest level of efficiency in the production of goods and services especially with a view to maximising foreign exchange earnings on the basis of international competitiveness, attaining food security, achieving structural diversification and improving the standard of living of their peoples;

Aware that optimal production by economic enterprises in the Community requires the structured integration of production in the Region, and particularly, the unrestricted movement of capital, labour and technology;

Resolved to establish conditions which would facilitate access by their nationals to the collective resources of the Region on a non-discriminatory basis;

Convinced that market-driven industrial development in the production of goods and services is essential for the economic and social development of the peoples of the Community;

Cognisant that a fully integrated and liberalised internal market will create favourable conditions for sustained, market-led production of goods and services on an internationally competitive basis;

Desirous further of establishing and maintaining a sound and stable macro-economic environment that is conducive to investment, including cross-border investments, and the competitive production of goods and services in the Community;

Believing that differences in resource endowment and in the levels of economic development of Member States, may affect the implementation of the Community Industrial Policy;

Recognising also the potential of micro, small, and medium enterprise development to contribute to the expansion and viability of national economies of the Community and the importance of large enterprises for achieving economies of scale in the production process;

Mindful that co-operation and joint action in developing trade relations with third States and in establishing appropriate regulatory and administrative procedures and services are essential for the development of the international and intraregional trade of Member States;

Determined further to effect a fundamental transformation of the agricultural sector of the Community by diversifying agricultural production, intensifying agro-industrial development, expanding agri-business, strengthening the linkages between the agricultural sector and other sectors of the CSME and generally conducting agricultural production on a market-oriented, internationally competitive and environmentally sound basis;

Acknowledging the vital importance of land, air and maritime transportation for maintaining economic, social and cultural linkages as well as facilitating emergency assistance among the Member States of the Community;

Recognising further the importance of the establishment and structured development of transport links with third States for the accelerated and sustained development of the CSME;

Conscious also of the importance of promoting adequate air and maritime transport services for the continued viability of the tourism industry and of reducing the vulnerability of the CARICOM Region resulting from its reliance on extra-regional carriers;

Convinced also that a viable transport policy for the Community will make a significant contribution in satisfying the demands for the intra-regional movement of people and products in the CSME;

Acknowledging further that some Member States, particularly the Less Developed Countries, are entering the CSME at a disadvantage by reason of the size, structure and vulnerability of their economies; and

Believing further that the persistence of disadvantage, however arising, may impact adversely on the economic and social cohesion in the Community;

Conscious further that disadvantaged countries, regions and sectors will require a transitional period to facilitate adjustment to competition in the CSME;

Committed to establish effective measures, programmes and mechanisms to assist disadvantaged countries, regions and sectors of the Community;

Mindful further that the benefits expected from the establishment of the CSME are not frustrated by anti-competitive business conduct whose object or effect is to prevent, restrict, or distort competition;

Convinced further that the application and convergence of national competition policies and the cooperation of competition authorities in the Community will promote the objectives of the CSME;

Affirming that the employment of internationally accepted modes of disputes settlement in the Community will facilitate achievement of the objectives of the Treaty;

Considering that an efficient, transparent, and authoritative system of disputes settlement in the Community will enhance the economic, social and other forms of activity in the CSME leading to confidence in the investment climate and further economic growth and development in the CSME;

Affirming also that the original jurisdiction of the Caribbean Court of Justice is essential for the successful operation of the CSME;

Recalling further the Charter of Civil Society adopted by the Conference of Heads of Government on 19 February 1997 reaffirming the human rights of their peoples,

Have agreed as follows:

Article 1
Use of Terms

In this Treaty, unless the context otherwise requires:

"Agreement" means the Agreement Establishing the Caribbean Court of Justice;

"anti-competitive business conduct" has the meaning assigned to it in Article 173;

"Budget Committee" means the Body of the Community established by paragraph 1 of Article 18;

"business" means any activity carried on for gain or reward or in the course of which goods or services are produced, manufactured or supplied as the case may be;

"Commission" means the Competition Commission established by Article 167;

"Committee of Central Bank Governors" means the Body of the Community referred to in paragraph 2 of Article 18;

"Community" means the Caribbean Community established by Article 2 and includes the CSME established by the provisions of this Treaty;

"Community Council of Ministers" or "the Community Council" means the Organ of the Community so named in paragraph 1(b) of Article 10;

"Community origin" means origin which complies with the Rules of Origin set out in Article 78;

"Community treatment" means the access accorded to goods which are of Community origin to the markets of Member States without the application of import duties or quantitative restrictions;

"competent authority" means the authority legally authorised to perform a function and for the purpose of Chapter Five means the Minister of Government so designated by a Member State;

"Conference of Heads of Government" or "the Conference" means the Organ so named in paragraph 1(a) of Article 10;

"Contracting Party" means a party to the Agreement;

"Council for Human and Social Development" or "COHSOD" means the Organ of the Community so named in paragraph 2 of Article 10;

"Council for Finance and Planning" or "COFAP" means the Organ of the Community so named in paragraph 2(a) of Article 10;

"Council for Foreign and Community Relations" or "COFCOR" means the Organ so named in paragraph 2(c) of Article 10;

"Council for Trade and Economic Development" or "COTED" means the Organ of the Community so named in paragraph 2(b) of Article 10;

"Court" means the Caribbean Court of Justice established by the Agreement;

"the CSME" means the regime established by the provisions of this Treaty replacing Chapters Three through Seven of the Annex to the Treaty Establishing the Caribbean Community and Common Market signed at Chaguaramas on 4 July 1973;

"disadvantaged countries" means:

(a) the Less Developed Countries within the meaning of Article 4; or

(b) Member States that may require special support measures of a transitional or temporary nature by reason of:

(i) impairment of resources resulting from natural disasters; or

(ii) the adverse impact of the operation of the CSME on their economies; or

(iii) temporary low levels of economic development; or

(iv) being a Highly-Indebted Poor Country designated as such by the competent inter-governmental organisation;

"disadvantaged regions" means:

(a) regions within Member States experiencing economic dislocation from the operation of the CSME; or

(b) regions that may require special support measures of a transitional or temporary nature by reason of:

(i) impairment of resources resulting from natural disasters; or

(ii) temporary low levels of economic development;

"disadvantaged sectors" means:

(a) sectors of the economies of Member States in which economic enterprises experience dislocation from the operation of the CSME; or

(b) sectors that may require special support measures of a transitional or temporary nature by reason of natural disasters, whereby the loss in the sector causes social and economic disorder;

"dispute" means a dispute within the meaning of Article 183;

"economic enterprises" means economic enterprises within the meaning of paragraph 5(b) of Article 32;

"enterprise" means any person or type of organisation, other than a non-profit organisation, involved in the production of or the trade in goods, or the provision of services;

"goods" means all kinds of property other than real property, money, securities or choses in action;

"import duties" means any tax or surtax of customs and any other charges of equivalent effect whether fiscal, monetary or exchange, which are levied on imports except those notified under Article 85 and other charges which fall within that Article;

"Legal Affairs Committee" means the Body established by paragraph 1 of Article 18;

"Member State" means a Member State of the Community excluding an Associate Member within the meaning of Article 231;

"Ministerial Councils" means COFAP, COFCOR, COHSOD and COTED;

"national" means a national within the meaning of paragraph 5(a) of Article 32;

President" means the President of the Court;

"recommended practice" means any specification for physical characteristics, configuration, material, performance, personnel or procedure, the uniform application of which is regionally or generally recognised in the international community as desirable for the efficient delivery of transport services;

"rules of competition" includes the rules set out in sub-paragraph (a)(i) of paragraph 1 of Article 166 and Articles 176, 177, 178 and 179;

"Secretariat" means the Secretariat of the Community referred to in Article 23;

"Secretary-General" means the Secretary-General of the Community;

"services" means services provided against remuneration other than wages in an approved sector and "the provision of services" means the supply of services:

(a) from the territory of one Member State into the territory of another Member State;

(b) in the territory of one Member State to a service consumer of another Member State;

(c) by a service supplier of one Member State through commercial presence in the territory of another Member State; and

(d) by a service supplier of one Member State through the presence of natural persons of a Member State in the territory of another Member State;

"standard" means any specification for physical characteristics, configuration, material, performance, personnel or procedure, the uniform application of which is regionally or generally recognised in the international community as necessary for the efficient delivery of transport services;

"subsidies" includes the subsidies set out in Schedule V and shall apply only in relation to goods;

"trade" includes any business, industry, profession or occupation relating to the supply or acquisition of goods or services;

"WTO Agreement" means the Agreement establishing the World Trade Organisation done at Marrakesh on 15 April 1994.

CHAPTER ONE - PRINCIPLES

Article 2
Establishment of the Community

The Community is hereby established and recognised in the Protocol hereto as successor to the Caribbean Community and Common Market.

Article 3
Membership

1. Members of the Community consist of:
   (i) Antigua and Barbuda
   (ii) The Bahamas
   (iii) Barbados
   (iv) Belize
   (v) Dominica
   (vi) Grenada
   (vii) Guyana
   (viii) Jamaica
   (ix) Montserrat
   (x) St. Kitts and Nevis
   (xi) Saint Lucia
   (xii) St. Vincent and the Grenadines
   (xiii) Suriname
   (xiv) Trinidad and Tobago.

2. Membership of the Community shall be open to any other State or Territory of the Caribbean Region that is, in the opinion of the Conference, able and willing to exercise the rights and assume the obligations of membership.

Article 4
Less Developed Countries and
More Developed Countries

For the purpose of this Treaty the States specified in sub-paragraphs 1(b), (c), (g), (h), (m) and (n) of Article 3 shall be more developed countries and the remainder listed in the said paragraph shall be less developed countries.

Article 5
Modification of the Status of Member States

Notwithstanding the provisions of Article 4 and paragraph 1 of Article 28, the Conference may, by majority decision, modify the status of a Member State.

Article 6
Objectives of the Community

The Community shall have the following objectives:

(a) improved standards of living and work;

(b) full employment of labour and other factors of production;

(c) accelerated, co-ordinated and sustained economic development and convergence;

(d) expansion of trade and economic relations with third States;

(e) enhanced levels of international competitiveness;

(f) organisation for increased production and productivity;

(g) the achievement of a greater measure of economic leverage and effectiveness of Member States in dealing with third States, groups of States and entities of any description;

(h) enhanced co-ordination of Member States' foreign and [foreign] economic policies; and

(i) enhanced functional co-operation, including -

  (i) more efficient operation of common services and activities for the benefit of its peoples;

  (ii) accelerated promotion of greater understanding among its peoples and the advancement of their social, cultural and technological development;

  (iii) intensified activities in areas such as health, education, transportation, telecommunications.

Article 7
Non-Discrimination

1. Within the scope of application of this Treaty and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality only shall be prohibited.

2. The Community Council shall, after consultation with the competent Organs, establish rules to prohibit any such discrimination.

Article 8
Most Favoured Nation Treatment

Subject to the provisions of this Treaty, each Member State shall, with respect to any rights covered by this Treaty, accord to another Member State treatment no less favourable than that accorded to:

(a) a third Member State; or

(b) third States.

Article 9
General Undertaking on Implementation

Member States shall take all appropriate measures, whether general or particular, to ensure the carrying out of obligations arising out of this Treaty or resulting from decisions taken by the Organs and Bodies of the Community. They shall facilitate the achievement of the objectives of the Community. They shall abstain from any measures which could jeopardise the attainment of the objectives of this Treaty.

CHAPTER TWO - INSTITUTIONAL ARRANGEMENTS

Article 10
Organs of the Community

1. The principal Organs of the Community are:
   (a) the Conference of Heads of Government; and
   (b) the Community Council of Ministers which shall be the second highest organ.

2. In the performance of their functions, the principal Organs shall be assisted by the following Organs:
   (a) the Council for Finance and Planning;
   (b) the Council for Trade and Economic Development;
   (c) the Council for Foreign and Community Relations, and
   (d) the Council for Human and Social Development.

Article 11
Composition of the Conference

1. The Conference of Heads of Government shall consist of the Heads of Government of the Member States.

2. Any Head of Government may designate a Minister or other person to represent him or her at any Meeting of the Conference.

Article 12
Functions and Powers of the Conference

1. The Conference shall be the supreme Organ of the Community.

2. The Conference shall determine and provide policy direction for the Community.

3. Save as otherwise provided in this Treaty, the Conference shall be the final authority for the conclusion of treaties on behalf of the Community and for entering into relationships between the Community and international organisations and States.

4. The Conference may take decisions for the purpose of establishing the financial arrangements necessary to defray the expenses of the Community and shall be the final authority on questions arising in relation to the financial affairs of the Community.

5. Subject to the relevant provisions of this Treaty, the Conference shall exercise such powers as may be conferred on it by or under any instrument elaborated by or under the auspices of the Community.

6. The Conference may establish such Organs or Bodies as it considers necessary for the achievement of the objectives of the Community.

7. The Conference may issue policy directives of a general or special character to other Organs and Bodies of the Community concerning the policies to be pursued for the achievement of the objectives of the Community and effect shall be given to such directives.

8. Notwithstanding any other provision of this Treaty, the Conference may consider and resolve disputes between Member States.

9. The Conference may consult with entities within the Caribbean Region or with other organisations and for this purpose may establish such machinery as it considers necessary.

10. Subject to the provisions of this Chapter, the Conference shall regulate its own procedure and may decide to admit at its deliberations as observers representatives of non-Member States of the Community and other entities.

11. The Bureau, consisting of the current Chairman and the immediately outgoing and incoming Chairmen of the Conference, shall perform the following functions:

(a) initiating proposals for development and approval by the Ministerial Councils as it considers necessary;

(b) updating the consensus of the Member States on issues falling to be determined by the Conference;

(c) facilitating implementation of Community decisions, both at the regional and local levels, in an expeditious and informed manner;

(d) providing guidance to the Secretariat on policy issues.

Article 13
The Community Council of Ministers

1. The Community Council shall consist of Ministers responsible for Community Affairs and any other Minister designated by the Member States in their absolute discretion.

2. The Community Council shall, in accordance with the policy directions established by the Conference, have primary responsibility for the development of Community strategic planning and co-ordination in the areas of economic integration, functional co-operation and external relations.

3. In pursuance of paragraph 2, the Community Council shall:

(a) approve the programmes of the Community on the basis, inter alia, of proposals emanating from other Community Organs;

(b) subject to paragraph 5 of Article 20, amend proposals developed by the Ministerial Councils or request them to develop proposals for the achievement of Community objectives,

and have responsibility for promoting and monitoring the implementation of Community decisions in the Member States.

4. Without prejudice to the generality of the foregoing provisions, the Community Council shall:

(a) subject to paragraph 4 of Article 12, examine and approve the Community budget;

(b) mobilise and allocate resources for the implementation of Community plans and programmes;

(c) establish, subject to the provisions of Article 26, a system of regional and national consultations in order to enhance the decision-making and implementation processes of the Community;

(d) promote, enhance, monitor and evaluate regional and national implementation processes and, to this end, establish a regional technical assistance service;

(e) function as a preparatory body for meetings of the Conference;

(f) ensure the efficient operation and orderly development of the CSME, particularly by seeking to resolve problems arising out of its functioning, taking into account the work and decisions of COTED;

(g) receive and consider allegations of breaches of obligations arising under this Treaty, including disputes between Organs of the Community;

(h) on the instructions of the Conference, issue directives to Organs and to the Secretariat aimed at ensuring the timely implementation of Community decisions;

(i) undertake any additional functions remitted to it by the Conference, arising under this Treaty.

Article 14
The Council for Finance and Planning

1. The Council for Finance and Planning shall consist of Ministers designated by the Member States. Each Member State shall be entitled to designate alternates to represent it on COFAP.

2. Subject to the relevant provisions of Article 12, COFAP shall have primary responsibility for economic policy co-ordination and financial and monetary integration of Member States and, without prejudice to the generality of the foregoing, shall:

(a) establish and promote measures for the co-ordination and convergence of national macro-economic policies of the Member States and for the execution of a harmonised policy on foreign investment;

(b) promote and facilitate the adoption of measures for fiscal and monetary co-operation among the Member States, including the establishment of mechanisms for payment arrangements;

(c) recommend measures to achieve and maintain fiscal discipline by the Governments of the Member States;

(d) pending the establishment of a monetary union in the Community, recommend arrangements for the free convertibility of the currencies of the Member States on a reciprocal basis;

(e) promote the establishment and integration of capital markets in the Community, and

(f) undertake any additional functions remitted to it by the Conference arising under this Treaty.

3. Under the direction of COFAP, the Committee of Central Bank Governors shall assist in the performance of the functions mentioned in paragraph 2 of this Article.

Article 15
The Council for Trade and Economic Development

1. The Council for Trade and Economic Development shall consist of Ministers designated by the Member States. Each Member State shall be entitled to designate alternates to represent it on COTED.

2. Subject to the provisions of Article 12, COTED shall be responsible for the promotion of trade and economic development of the Community. In particular, COTED shall:

(a) promote the development and oversee the operation of the CSME;

(b) evaluate, promote and establish measures to enhance production, quality control and marketing of industrial and agricultural commodities so as to ensure their international competitiveness;

(c) establish and promote measures to accelerate structural diversification of industrial and agricultural production on a sustainable and regionally-integrated basis;

(d) determine and promote measures for the accelerated development and marketing of services;

(e) promote and develop policies and programmes to facilitate the transportation of people and goods;

(f) promote measures for the development of energy and natural resources on a sustainable basis;

(g) establish and promote measures for the accelerated development of science and technology;

(h) promote and develop policies for the protection of and preservation of the environment and for sustainable development;

(i) promote and develop, in collaboration with the Council for Foreign and Community Relations, co-ordinated policies for the enhancement of external economic and trade relations of the Community, and

(j) undertake any additional functions remitted to it by the Conference, arising under this Treaty.

Article 16
The Council for Foreign and Community Relations

1. The Council for Foreign and Community Relations shall consist of Ministers Responsible for the Foreign Affairs of Member States. Each Member State shall be entitled to designate an alternate to represent it on COFCOR.

2. Subject to the provisions of Article 12, COFCOR shall be responsible for determining relations between the Community and international organisations and Third States.

3. Without prejudice to the generality of paragraph 2, COFCOR shall:

(a) promote the development of friendly and mutually beneficial relations among the Member States;

(b) establish measures to co-ordinate the foreign policies of the Member States of the Community, including proposals for joint representation, and seek to ensure, as far as practicable, the adoption of Community positions on major hemispheric and international issues;

(c) co-ordinate the positions of the Member States in inter-governmental organisations in whose activities such States participate;

(d) collaborate with COTED in promoting and developing co-ordinated policies for the enhancement of external economic and trade relations of the Community;

(e) co-ordinate, in close consultation with the Member States, Community policy on international issues with the policies of States in the wider Caribbean Region in order to arrive at common positions in relation to Third States, groups of States and relevant inter-governmental organisations, and

(f) undertake any additional functions remitted to it by the Conference, arising under this Treaty.

4. Only Member States possessing the necessary competence with respect to the matters under consideration from time to time may take part in the deliberations of COFCOR.

Article 17
The Council for Human and Social Development

1. The Council for Human and Social Development shall consist of Ministers designated by the Member States. Each Member State shall be entitled to designate alternates to represent it on COHSOD.

2. Subject to the provisions of Article 12, COHSOD shall be responsible for the promotion of human and social development in the Community. In particular, COHSOD shall:

(a) promote the improvement of health, including the development and organisation of efficient and affordable health services in the Community;

(b) promote the development of education through the efficient organisation of educational and training facilities in the Community, including elementary and advanced vocational training and technical facilities;

(c) promote and develop co-ordinated policies and programmes to improve the living and working conditions of workers and take appropriate measures to facilitate the organisation and development of harmonious labour and industrial relations in the Community;

(d) establish policies and programmes to promote the development of youth and women in the Community with a view to encouraging and enhancing their participation in social, cultural, political and economic activities;

(e) promote and establish programmes for the development of culture and sports in the Community;

(f) promote the development of special focus programmes supportive of the establishment and maintenance of a healthy human environment in the Community, and

(g) undertake any additional functions remitted to it by the Conference, arising under this Treaty.

3. Without prejudice to the requirements of any other provision of this Treaty, COHSOD shall promote co-operation among the Member States in the areas set out in the schedule hereto in furtherance of the objectives set out in Article 5.

Article 18
Bodies of the Community

1. There are hereby established as Bodies of the Community:

(a) the Legal Affairs Committee; and

(b) the Budget Committee.

2. The Council of Central Bank Governors shall be redesignated the "Committee of Central Bank Governors" and recognised as a Body of the Community.

3. The Organs of the Community may establish, as they deem necessary, other Bodies of the Community.

Article 19
Composition and Functions of Bodies of the Community

1. The Legal Affairs Committee shall consist of the Ministers responsible for Legal Affairs or Attorneys-General of the Member States, or both, and shall be responsible for providing the Organs and Bodies, either on request or on its own initiative,

with advice on treaties, international legal issues, the harmonisation of laws of the Community and other legal matters.

2. The Budget Committee shall consist of senior officials of the Member States who shall perform their functions in a professional capacity . It shall examine the draft budget and work programme of the Community prepared by the Secretariat and submit recommendations to the Community Council.

3. The Committee of Central Bank Governors shall consist of the Governors or Heads of the Central Banks of the Member States or their nominees. The Committee shall make recommendations to COFAP on matters relating to monetary co-operation, payments arrangements, free movement of capital, integration of capital markets, monetary union and any other related matters referred to it by the Organs of the Community.

4. The procedures of Bodies shall be regulated, mutatis mutandis, by the relevant provisions of Articles 27 and 29.

Article 20
Co-operation by Community Organs

1. Community Organs shall co-operate with each other for the achievement of Community objectives.

2. The Bureau and the Community Council may initiate proposals for development by the Ministerial Councils within their respective areas of competence.

3. Where a Community Organ proposes to develop a proposal which is likely to impact importantly on activities within the sphere of competence of another Community Organ, the first-mentioned Community Organ shall transmit such proposal to other interested Community Organs for their consideration and reaction before reaching a final decision on the proposal.

4. Proposals approved by the Ministerial Councils shall be transmitted to the Community Council for prioritisation and resource allocation for their implementation.

5. Proposals approved by the Ministerial Councils and transmitted to the Community Council for prioritisation and resource allocation for implementation may be returned by the Community Council to the originating Organ for modification. The Community Council may modify the proposal to the extent and in the manner agreed with the originating Organ.

6. The Secretariat shall monitor the development and implementation of proposals for the achievement of Community objectives and keep the Community Council informed accordingly.

Article 21
Institutions of the Community

The following entities established by or under the auspices of the Community shall be recognised as Institutions of the Community:

- Caribbean Disaster Emergency Response Agency (CDERA);
- Caribbean Meteorological Institute (CMI);

- Caribbean Meteorological Organisation (CMO);
- Caribbean Environmental Health Institute (CEHI);
- Caribbean Agricultural Research and Development Institute (CARDI);
- Caribbean Regional Centre for the Education and Training of Animal Health and Veterinary Public Health Assistants (REPAHA);
- Association of Caribbean Community Parliamentarians (ACCP);
- Caribbean Centre For Developmental Administration (CARICAD);
- Caribbean Food and Nutrition Institute (CFNI),

and such other entities as may be designated by the Conference.

Article 22
Associate Institutions of the Community

The following entities with which the Community enjoys important functional relationships which contribute to the achievement of the objectives of the Community shall be recognised as Associate Institutions of the Community:

- Caribbean Development Bank (CDB);
- University of Guyana (UG);
- University of the West Indies (UWI);
- Caribbean Law Institute / Caribbean Law Institute Centre (CLI/CLIC);
- the Secretariat of the Organisation of Eastern Caribbean States;

and such other entities as may be designated by the Conference.

Article 23
The Secretariat

1. The Secretariat shall be the principal administrative organ of the Community. The headquarters of the Community shall be located in Georgetown, Guyana.

2. The Secretariat shall comprise a Secretary-General and such other staff as the Community may require. In the recruitment of such staff, consideration shall be given to securing the highest standards of efficiency, competence and integrity, bearing in mind the principle of equitable geographical distribution.

3. The Secretary-General shall, in addition to the powers conferred by or under the Treaty, be the Chief Executive Officer of the Community and shall act in that capacity at all meetings of Community Organs and Bodies. He shall make an annual report to the Conference on the work of the Community.

4. In the performance of their duties the Secretary-General and staff shall neither seek nor receive instructions from any Government of the Member States or from any other authority external to the Community. They shall refrain from any action which might reflect adversely on their position as officials of the Community and shall be responsible only to the Community.

5. Member States undertake to respect the exclusively international character of the responsibilities of the Secretary-General and staff and shall not seek to influence them in the discharge of their responsibilities.

6. The Conference shall approve the Staff Regulations governing the operations of the Secretariat.

7. The Community Council shall approve the financial regulations governing the operations of the Secretariat.

8. The Secretary-General shall establish Staff Rules for the operation of the Secretariat.

Article 24
The Secretary-General

1. The Secretary-General shall be appointed by the Conference, on the recommendation of the Community Council, for a term not exceeding five years and may be reappointed by the Conference.

2. The Secretary-General shall be the Chief Executive Officer of the Community and shall, subject to the determinations of competent Organs of the Community and in accordance with the financial and other regulations, perform the following functions:

(a) represent the Community;

(b) develop, as mandated, decisions of competent Organs of the Community into implementable proposals;

(c) identify and mobilise, as required, external resources to implement decisions at the regional level and undertake studies and develop decisions on relevant issues into implementable proposals;

(d) implement, as mandated, decisions at the regional level for the achievement of Community objectives;

(e) implement, with the consent of the Member State concerned, Community decisions which do not require legislative or administrative action by national authorities;

(f) monitor and report on, as mandated, implementation of Community decisions;

(g) initiate or develop proposals for consideration and decision by competent Organs in order to achieve Community objectives, and

(h) such other functions assigned by the Conference or other competent Organs.

Article 25
Functions of the Secretariat

In addition to any functions which may be assigned to it by Organs of the Community, the Secretariat shall:

(a) service meetings of the Organs and Bodies of the Community and take appropriate follow up action on determinations issuing from such meetings;

(b) initiate, organise and conduct studies on issues for the achievement of the objectives of the Community;

(c) provide, on request, services to the Member States of the Community on matters relating to the achievement of its objectives;

(d) collect, store and disseminate to the Member States of the Community information relevant for the achievement of its objectives;

(e) assist Community Organs in the development and implementation of proposals and programmes for the achievement of objectives of the Community;

(f) co-ordinate in relation to the Community the activities of donor agencies, international, regional and national institutions for the achievement of objectives of the Community;

(g) prepare the draft budget of the Community for examination by the Budget Committee;

(h) provide, on request, technical assistance to national authorities to facilitate implementation of Community decisions;

(i) conduct, as mandated, fact-finding assignments in the Member States, and

(j) initiate or develop proposals for consideration and decision by competent Organs in order to achieve Community objectives.

Article 26
The Consultative Process

1. In order to enhance the decision-making process in the Community, the Community Council, assisted by the Secretary-General, shall, in collaboration with competent authorities of the Member States, establish and maintain an efficient system of consultations at the national and regional levels.

2. The system of consultations shall be structured to ensure that determinations of Community Organs and the Legal Affairs Committee are adequately informed by relevant information inputs and are reinforced by consultations undertaken at successively lower levels of the decision-making process.

Article 27
Common Voting Procedures
in Community Organs and Bodies

1. Subject to paragraph 2 of this Article, each Member State represented on Community Organs and Bodies shall have one vote. A simple majority of Member States shall constitute a quorum.

2. Member States, whose contributions to the regular budget of the Community are in arrears for more than two years, shall not have the right to vote except on matters relating to the CSME, but may otherwise participate in the deliberations of Community Organs and Bodies. The Conference may, nevertheless, permit such Member States to

vote if it is satisfied that the failure to contribute is due to conditions beyond their control.

3. Decisions on procedural issues in Community Organs shall be reached by a simple majority of Member States.

4. Subject to the agreement of the Conference, a Member State may opt out of obligations arising from the decisions of competent Organs provided that the fundamental objectives of the Community, as laid down in the Treaty, are not prejudiced thereby.

5. Prior to taking decisions on any issue falling to be determined by Community Organs, the Secretariat shall bring to the attention of the meeting the financial implications of such decisions and any other matters which may be relevant.

6. Recommendations of Community Organs shall be made by a two-thirds majority of Member States and shall not be legally binding. Member States omitting to comply with recommendations shall inform the Secretariat in writing within six months stating the reasons for their non-compliance.

7. Subject to the relevant provisions of this Treaty, Community Organs and Bodies shall establish their rules of procedure.

Article 28
Voting in the Conference

1. Save as otherwise provided in this Treaty and subject to paragraph 2 of this Article and the relevant provisions of Article 27, the Conference shall take decisions by an affirmative vote of all its members and such decisions shall be binding.

2. For the purpose of this Article abstentions shall not be construed as impairing the validity of decisions of the Conference provided that the Member States constituting three-quarters of the membership of the Community, vote in favour of such decisions.

3. Omission by a Member State to participate in the vote shall be deemed an abstention within the meaning of paragraph 2 of this Article.

4. Parties to a dispute or against which sanctions are being considered shall not have the right to vote on the issue falling to be determined.

Article 29
Voting in the Community Council and Ministerial Councils

1. Save as otherwise provided in this Treaty and subject to the provisions of this Article and Article 27, the Ministerial Councils shall take decisions by a qualified majority vote and such decisions shall be binding.

2. For the purposes of paragraph 1 of this Article a qualified majority vote means an affirmative vote of the Member States comprising no less than three-quarters of the membership of the Community.

3. Where issues have been determined to be of critical importance to the national well-being of a Member State, in accordance with paragraph 4 of this Article, such decisions shall be reached by an affirmative vote of all Member States.

4. Decisions that an issue is of critical importance to the national well-being of a Member State shall be reached by a two-thirds majority of the Member States.

5. For the purposes of paragraph 3 of this Article abstentions shall not be construed as impairing the validity of decisions required to be reached by unanimity provided that Member States constituting not less than three-quarters of the membership of the Community vote in favour of such decisions.

CHAPTER THREE - ESTABLISHMENT, SERVICES, CAPITAL AND MOVEMENT OF COMMUNITY NATIONALS

Article 30
Scope of Application

1. Save as otherwise provided in this Article and Article 31, the provisions of this Chapter shall apply to the right of establishment, the right to provide services and the right to move capital in the Community.

2. Activities in a Member State involving the exercise of governmental authority shall, in so far as that Member State is concerned, be excluded from the operation of this Chapter.

3. For the purposes of this Chapter, "activities involving the exercise of governmental authority" means activities conducted neither on a commercial basis nor in competition with one or more economic enterprises, and includes:

(a) activities conducted by a central bank or monetary authority or any other public entity, in pursuit of monetary or exchange rate policies;

(b) activities forming part of a statutory system of social security or public retirement plans;

(c) activities forming part of a system of national security or for the establishment or maintenance of public order; and

(d) other activities conducted by a public entity for the account of or with the guarantee or using financial resources of the government.

Article 31
Treatment of Monopolies

1. The Member States may determine that the public interest requires the exclusion or restriction of the right of establishment in any industry or in a particular sector of an industry.

2. Where such a determination has been made:

(a) if the determination results in the continuation or establishment of a government monopoly, the Member State shall adopt appropriate measures to ensure that the monopoly does not discriminate between nationals of Member States, save as otherwise provided in this Treaty,

and is subject to the agreed rules of competition established for Community economic enterprises;

(b) if the determination results in the continuation or establishment of a private sector monopoly, the Member State shall, subject to the provisions of this Treaty, adopt appropriate measures to ensure that national treatment is accorded to nationals of other Member States in terms of participating in its operations.

Article 32
Prohibition of New Restrictions
on the Right of Establishment

1. The Member States shall not introduce in their territories any new restrictions relating to the right of establishment of nationals of other Member States save as otherwise provided in this Treaty.

2. The Member States shall notify COTED of existing restrictions on the right of establishment in respect of nationals of other Member States.

3. (1) The right of establishment within the meaning of this Chapter shall include the right to:

(a) engage in any non-wage-earning activities of a commercial, industrial, agricultural, professional or artisanal nature;

(b) create and manage economic enterprises referred to in paragraph 5(b) of this Article.

(2) For the purposes of this Chapter "non-wage earning activities" means activities undertaken by self-employed persons.

4. The Community Council may, with the approval of the Conference and upon the recommendation of COTED or COFAP, as the case may be, enlarge the body of rights provided in paragraph 3 of this Article. The competent Organ shall establish basic criteria for Member States in order to safeguard against manipulation or abuse of such rights so as to gain an unfair advantage against other Member States, for example, in the areas of nationality criteria and in the operation of companies.

5. For the purposes of this Chapter:

(a) a person shall be regarded as a national of a Member State if such person -

(i) is a citizen of that State;

(ii) has a connection with that State of a kind which entitles him to be regarded as belonging to or, if it be so expressed, as being a native or resident of the State for the purposes of the laws thereof relating to immigration; or

(iii) is a company or other legal entity constituted in the Member State in conformity with the laws thereof and which that State regards as belonging to it, provided that such company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity, within the Community and which is substantially owned and effectively

controlled by persons mentioned in sub-paragraphs (i) and (ii) of this paragraph;

(b) "economic enterprises" includes any type of organisation for the production of or trade in goods or the provision of services (other than a non-profit organisation) owned or controlled by any person or entity mentioned in sub-paragraph (a) of this paragraph;

(c) a company or other legal entity is:

(i) substantially owned if more than 50 per cent of the equity interest therein is beneficially owned by nationals mentioned in sub-paragraph (a) (i) or (ii) of this paragraph;

(ii) effectively controlled if nationals mentioned in sub-paragraph (a) of this paragraph have the power to name a majority of its directors or otherwise legally to direct its actions.

Article 33
Removal of Restrictions on the Right of Establishment

1. Subject to the provisions of Article 221 and Article 222, the Member States shall remove restrictions on the right of establishment of nationals of a Member State in the territory of another Member State.

2. The removal of restrictions on the right of establishment mentioned in paragraph 1 of this Article shall also apply to restrictions on the setting up of agencies, branches or subsidiaries by nationals of a Member State in the territory of another Member State.

3. Subject to the approval of the Conference, COTED, in consultation with COHSOD and COFAP, shall, within one year from the entry into force of this Treaty, establish a programme providing for the removal of restrictions on the right of establishment of nationals of a Member State in the territory of another Member State. The programme shall, inter alia:

(a) identify the activities in respect of which the right of establishment shall not apply;

(b) establish the conditions under which the right of establishment is to be achieved; and

(c) set out the conditions, stages and time-frames for the removal of restrictions on the right of establishment.

4. The Community Council may authorise a Member State whose nationals have been aggrieved by the violation of obligations set out in this Article, Article 32, Article 36 and Article 37 to take such measures as may be provided for in this Treaty.

Article 34
Management of Removal of Restrictions on the Right of Establishment

In performing its tasks set out in Article 33, COTED shall, *inter alia*:

(a) accord priority to the removal of restrictions on activities in respect of which the right of establishment encourages the development of:

(i) the production of trade in goods;

(ii) the provision of services,

which generate foreign exchange earnings;

(b) require the Member States to remove administrative practices and procedures, the maintenance of which impede the exercise of the right of establishment;

(c) require the Member States to remove all restrictions on the movement of managerial, technical and supervisory staff of economic enterprises and on establishing agencies, branches and subsidiaries of companies and other entities established in the Community;

(d) establish measures to ensure the removal of restrictions on the right of establishment in respect of activities accorded priority treatment pursuant to paragraph (a) of this Article as they relate to:

(i) the establishment, in the territories of the Member States, of agencies, branches or subsidiaries belonging to an economic enterprise; and

(ii) the conditions governing the entry of managerial, technical or supervisory personnel employed in such agencies, branches and subsidiaries, including the spouses and immediate dependent family members of such personnel;

(e) take appropriate measures to ensure close collaboration among competent national authorities in order to improve their knowledge of the particular situation regarding the relevant activities within the Community;

(f) require the Member States to ensure that nationals of one Member State may have access to land, buildings and other property situated in the territory of another Member State, other than for speculative purposes or for a purpose potentially destabilising to the economy, on a non-discriminatory basis, bearing in mind the importance of agriculture for many national economies;

(g) ensure concordance in the Member States regarding the protection afforded the interests of partners, members and other persons with financial interests in companies and other entities.

Article 35
Acceptance of Diplomas, Certificates, and Other Evidence Of Qualifications

1. COHSOD, in consultation with the competent Organ, shall establish common standards and measures for accreditation or when necessary for the mutual recognition of diplomas, certificates and other evidence of qualifications of the nationals of the Member States in order to facilitate access to, and engagement in, employment and non-wage-earning activities in the Community.

2. The Member States shall establish or employ, as the case may be, appropriate mechanisms to establish common standards to determine equivalency or accord accreditation to diplomas, certificates and other evidence of qualifications secured by nationals of other Member States.

3. COHSOD shall also establish measures for the co-ordination of legislative and administrative requirements of the Member States for the participation of Community nationals in employment and for the conduct of non-wage-earning activities in the Community.

Article 36
Prohibition of New Restrictions on the Provision of Services

1. The Member States shall not introduce any new restrictions on the provision of services in the Community by nationals of other Member States except as otherwise provided in this Treaty.

2. Without prejudice to the provisions relating to the right of establishment, persons providing services may, in order to provide such services, temporarily engage in approved activities in the Member State where the services are to be provided under the same conditions enjoyed by nationals of that Member State.

3. The Member States shall notify COTED of existing restrictions on the provision of services in respect of nationals of other Member States.

4. For the purposes of this Chapter, "services" means services provided against remuneration other than wages in any approved sector and "the provision of services" means the supply of services:

(a) from the territory of one Member State into the territory of another Member State;

(b) in the territory of one Member State to the service consumer of another Member State;

(c) by a service supplier of one Member State through commercial presence in the territory of another Member State; and

(d) by a service supplier of one Member State through the presence of natural persons of a Member State in the territory of another Member State.

Article 37
Removal of Restrictions on Provision of Services

1. Subject to the provisions of this Treaty, Member States shall abolish discriminatory restrictions on the provision of services within the Community in respect of Community nationals.

2. Subject to the approval of the Conference, COTED, in consultation with other competent Organs, shall, within one year from the entry into force of this Treaty, establish a programme for the removal of restrictions on the provision of such services in the Community by Community nationals.

3. In establishing the programme mentioned in paragraph 2 of this Article, COTED shall:

(a) accord priority to services which directly affect production costs or facilitate the trade in goods and services which generate foreign exchange earnings;

(b) require the Member States to remove administrative practices and procedures, the maintenance of which impede the exercise of the right to provide services;

(c) establish measures to ensure the abolition of restrictions on the right to provide services in respect of activities accorded priority treatment in accordance with sub-paragraph (a) of this paragraph, both in terms of conditions for the provision of services in the territories of Member States as well as the conditions governing the entry of personnel, including their spouses and immediate dependent family members, for the provision of services;

(d) take appropriate measures to ensure close collaboration among competent national authorities in order to improve their knowledge of the conditions regarding relevant activities within the Community, and

(e) require the Member States to ensure that nationals of one Member State have on a non-discriminatory basis, access to land, buildings and other property situated in the territory of another Member State for purposes directly related to the provision of services, bearing in mind the importance of agriculture for many national economies.

Article 38
Removal of Restrictions on Banking, Insurance and Other Financial Services

1. Subject to the provisions of this Chapter, the Member States shall remove discriminatory restrictions on banking, insurance and other financial services.

2. Subject to the approval of the Conference, COFAP, in consultation with other competent Organs of the Community, may exclude certain financial services from the operation of the provisions of this Article.

Article 39
Prohibition of New Restrictions on Movement of Capital and Current Transactions

The Member States shall not introduce any new restrictions on the movement of capital and payments connected with such movement and on current payments and transfers, nor render more restrictive existing regulations except as provided in Article 43 and Article 46.

Article 40
Removal of Restrictions on Movement of Capital and Current Transactions

1. The Member States shall, in order to ensure the proper functioning of the CSME, remove among themselves:

(a) restrictions on the movement of capital payments;

(b) restrictions on all current payments including payments for goods and services and other current transfers.

2. COFAP, subject to the approval of the Conference, shall establish in collaboration with the Committee of Central Bank Governors a programme for the removal of the restrictions mentioned in paragraph 1 of this Article.

3. For the purpose of this Article, capital and related payments and transfers include:

(a) equity and portfolio investments;

(b) short-term bank and credit transactions;

(c) payment of interest on loans and amortization;

(d) dividends and other income on investments after taxes;

(e) repatriation of proceeds from the sale of assets; and

(f) other transfers and payments relating to investment flows.

Article 41
Authorisation to Facilitate Movement of Capital

1. The Member States shall, where necessary and subject to paragraph 2 of this Article, grant the authorisations required for the movement of capital mentioned in Article 40 on a non-discriminatory basis.

2. A loan intended for State purposes may require prior notification to the State in which it is being issued or placed.

Article 42
Co-ordination of Foreign Exchange Policies and Exchange of Information

1. The Member States shall take such measures as are necessary to coordinate their foreign exchange policies in respect of the movement of capital between them and third States.

2. The Member States shall keep the competent authorities in other Member States informed of significant unusual movements of capital within their knowledge to and from third States.

Article 43
Restrictions to Safeguard Balance-of-Payments

1. In the event of serious balance-of-payments and external financial difficulties or threat thereof, a Member State may, consistently with its international obligations and subject to paragraph 5 of this Article, adopt or maintain restrictions to address such difficulties.

2. The restrictions which may be adopted or maintained pursuant to paragraph 1 of this Article may include quantitative restrictions on imports, restrictions on the right of establishment, restrictions on the right to provide services, restrictions on the right to move capital or on payments and transfers for transactions connected therewith. However, such restrictions:

(a) shall, subject to the provisions of this Treaty, not discriminate among Member States or against Member States in favour of third States;

(b) shall at all times seek to minimise damage to the commercial, economic or financial interests of any other Member State;

(c) shall not exceed those necessary to deal with the circumstances described in paragraph 1 of this Article; and

(d) shall be temporary but in any event not longer than a period of eighteen (18) months and be phased out progressively as the situation described in paragraph 1 improves.

3. In determining the incidence of such restrictions, the Member State concerned may accord priority to activities which are essential to its economic stability. Such restrictions shall not be adopted or maintained for the purpose of protecting a particular sector in contravention of the relevant provisions of this Treaty, due regard being paid in either case to any special factors which may be affecting the reserves of such Member State or its need for reserves.

4. Restrictions adopted or maintained pursuant to paragraph 1 of this Article, or any changes therein, shall be promptly notified within three (3) working days to COFAP and to COTED, and, in any event, the Member State concerned shall immediately consult with the competent Organ if and when requested.

5. COFAP shall establish procedures for periodic consultations including, where possible and desirable, prior consultations with the objective of making recommendations to the Member State concerned for the removal of the restrictions.

6. The consultations referred to in paragraph 5 of this Article shall:

(a) be designed to assist the Member State concerned to overcome its balance-of-payments and external financial difficulties;

(b) assess the balance-of-payments situation of the Member State concerned and the restrictions adopted or maintained under this Article, taking into account, *inter alia*:

(i) the nature and extent of the balance-of-payments and the external financial difficulties;

(ii) the external economic and trading environment of the Member State applying the restrictions; and

(iii) alternative corrective measures which may be available.

7. The consultations shall address the compliance of any restrictions with paragraph 2 of this Article and, in particular, the progressive phase-out of restrictions in accordance with paragraph 2(d).

8. In such consultations, all findings of statistical and other facts presented by the Committee of Central Bank Governors relating to foreign exchange, monetary reserves and balance-of-payments, shall be accepted and conclusions shall be based on the assessment by the Committee of the balance-of-payments and the external financial situation of the Member State concerned.

Article 44
Measures to Facilitate Establishment, Provision of Services and Movement of Capital

1. In order to facilitate the exercise of the rights provided for in this Chapter, COTED and COFAP shall, subject to the approval of the Conference, adopt appropriate measures for:

(a) the establishment of market intelligence and information systems in the Community;

(b) harmonised legal and administrative requirements for the operation of partnerships, companies, or other entities;

(c) abolition of exchange controls in the Community, and free convertibility of the currencies of the Member States;

(d) the establishment of an integrated capital market in the Community;

(e) convergence of macro-economic performance and policies through the co-ordination or harmonisation of monetary and fiscal policies, including, in particular, policies relating to interest rates, exchange rates, tax structures and national budgetary deficits;

(f) the establishment of economical and efficient land, sea and air transport services throughout the Community, and

(g) the establishment of efficient communication services.

2. COFAP and COTED shall establish a comprehensive set of rules in respect of the areas listed in paragraph 1 of this Article for approval by the Conference.

Article 45
Movement of Community Nationals

Member States commit themselves to the goal of free movement of their nationals within the Community.

Article 46
Movement of Skilled Community Nationals

1. Without prejudice to the rights recognised and agreed to be accorded by Member States in Articles 32, 33, 37, 38 and 40 among themselves and to Community nationals, Member States have agreed, and undertake as a first step towards achieving the goal set out in Article 45, to accord to the following categories of Community nationals the right to seek employment in their jurisdictions:

(a) University graduates;
(b) media workers;
(c) sportspersons;
(d) artistes; and
(e) musicians,

recognised as such by the competent authorities of the receiving Member States.

2. Member States shall establish appropriate legislative, administrative and procedural arrangements to:

(a) facilitate the movement of skills within the contemplation of this Article;
(b) provide for movement of Community nationals into and within their jurisdictions without harassment or the imposition of impediments, including:
    (i) the elimination of the requirement for passports for Community nationals travelling to their jurisdictions;
    (ii) the elimination of the requirement for work permits for Community nationals seeking approved employment in their jurisdictions;
    (iii) establishment of mechanisms for certifying and establishing equivalency of degrees and for accrediting institutions;
    (iv) harmonisation and transferability of social security benefits.

3. Nothing in this Treaty shall be construed as inhibiting Member States from according Community nationals unrestricted access to, and movement within, their jurisdictions subject to such conditions as the public interest may require.

4. The Conference shall keep the provisions of this Article under review in order to:

(a) enlarge, as appropriate, the classes of persons entitled to move and work freely in the Community; and
(b) monitor and secure compliance therewith.

Article 47
Restrictions to Resolve Difficulties or Hardships
Arising from the Exercise of Rights

1. Where the exercise of rights granted under this Chapter creates serious difficulties in any sector of the economy of a Member State or occasions economic hardships in a region of the Community, a Member State adversely affected thereby

may, subject to the provisions of this Article, apply such restrictions on the exercise of the rights as it considers appropriate in order to resolve the difficulties or alleviate the hardships.

2. Where a Member State:

(a) intends to apply restrictions in accordance with paragraph 1 of this Article, it shall, prior to applying those restrictions, notify the competent Organ of that intention and the nature of the restrictions;

(b) is unable to comply with sub-paragraph (a) of this paragraph, it shall, upon applying the restrictions in accordance with paragraph 1, immediately notify the competent Organ of the application and nature of the restrictions.

3. The Member State shall, at the time of application of the restrictions mentioned in paragraph 1, submit to COTED or COFAP, as the case may require, a programme setting out the measures to be taken by that Member State to resolve the difficulties or to alleviate the hardships.

4. The competent Organ shall give its earliest consideration to the programme, and:

(a) make a determination in respect of the appropriateness of the restrictions and whether they shall be continued; and

(b) where it decides that the restrictions shall be continued, determine:

(i) the adequacy of the programme; and

(ii) the period for which the restrictions should continue.

The competent Organ, in making a determination under sub-paragraph (b) of this paragraph, may impose such conditions as it considers necessary.

5. Restrictions applied by a Member State pursuant to paragraph 1 of this Article shall be confined to those necessary:

(a) to resolve the difficulties in the affected sectors;

(b) to alleviate economic hardships in a particular region.

6. In applying restrictions mentioned in paragraph 5, Member States shall:

(a) minimise damage to the commercial or economic interests of any other Member State; or

(b) prevent the unreasonable exercise of rights granted under this Chapter, the exclusion of which could impair the development of the CSME.

7. The Member States, in applying restrictions pursuant to paragraph 1 of this Article, shall not discriminate and:

(a) shall progressively relax them as relevant conditions improve;

(b) may maintain them only to the extent that conditions mentioned in paragraph 1 of this Article continue to justify their application.

8. If COTED or COFAP, as the case may require, is not satisfied that Member States applying restrictions are acting in accordance with the provisions of paragraph 6

of this Article, it may recommend to the Member States adversely affected thereby alternative arrangements to the same end.

Article 48
Waiver of Obligations to Grant Rights

1. Notwithstanding any provision in this Chapter, a Member State may apply to the Community Council for a waiver of the requirement to grant any of the rights mentioned in paragraph 1 of Article 30 in respect of any industry, sector or enterprise.

2. An application for a waiver within the meaning of paragraph 1 of this Article shall:

(a) be made prior to the establishment of the relevant programme for the removal of restrictions on the rights mentioned in paragraph 1;

(b) identify the rights in respect of which the waiver is required;

(c) set out the circumstances justifying the grant of the waiver; and

(d) indicate the period for which the waiver is required.

3. The Community Council may require the applicant to furnish such additional information as the Council may specify.

4. Where the Community Council is satisfied that the waiver should be granted, it shall grant a waiver for a period not exceeding five years, subject to such terms and conditions as the Community Council may determine.

5. A Member State which has been granted a waiver within the meaning of paragraph 1 of this Article:

(a) shall not, while the waiver is in force, be entitled to espouse a claim on behalf of its nationals against another Member State in respect of the rights for which the waiver was granted;

(b) shall:

(i) at the termination of the period of the waiver, remove the restrictions and notify the Community Council; or

(ii) where the Member State removes the restrictions before the end of the period of the waiver, notify the Community Council accordingly.

Article 49
Special Provisions for Less Developed Countries

Where in this Chapter, the Member States or competent Organs are required to remove restrictions on the exercise of the rights mentioned in paragraph 1 of Article 30 the special needs and circumstances of the Less Developed Countries shall be taken into account.

Article 50
Accelerated Implementation

Nothing in this Chapter shall be construed as precluding the Member States from adopting measures to remove restrictions on the right of establishment, the right to

provide services or the right to move capital within the Community earlier than is required by these provisions.

CHAPTER FOUR - POLICIES FOR SECTORAL DEVELOPMENT

PART ONE - INDUSTRIAL POLICY

Article 51
Objectives of the Community Industrial Policy

1. The goal of the Community Industrial Policy shall be market-led, internationally competitive and sustainable production of goods and services for the promotion of the Region's economic and social development.

2. In fulfilment of the goal set out in paragraph 1 of this Article, the Community shall pursue the following objectives:

(a) cross-border employment of natural resources, human resources, capital, technology and management capabilities for the production of goods and services on a sustainable basis;

(b) linkages among economic sectors and enterprises within and among the Member States of the CSME;

(c) promotion of regional economic enterprises capable of achieving scales of production to facilitate successful competition in domestic and extra-regional markets;

(d) establishment of a viable micro and small economic enterprise sector;

(e) enhanced and diversified production of goods and services for both export and domestic markets;

(f) sustained public and private sector collaboration in order to secure market-led production of goods and services;

(g) enhanced industrial production on an environmentally sustainable basis;

(h) balanced economic and social development in the CSME bearing in mind the special needs of disadvantaged countries, regions and sectors within the meaning of Article I; and

(i) stable industrial relations.

Article 52
Implementation of Community Industrial Policy

1. In order to achieve the objectives of its industrial policy, the Community shall promote, inter alia:

(a) the co-ordination of national industrial policies of the Member States;

(b) the establishment and maintenance of an investment-friendly environment, including a facilitative administrative process;

(c) the diversification of the products and markets for goods and services with a view to increasing the range and value of exports;

(d) the organisation and development of product and factor markets;

(e) the development of required institutional, legal, technical, financial, administrative and other support for the establishment or development of micro and small economic enterprises throughout the Community; and

(f) in collaboration with the social partners, the advancement of production integration.

2. The Community shall establish a special regime for disadvantaged countries, regions and sectors.

3. COTED shall, in collaboration with competent organs and bodies of the Community and the private sector, establish criteria for according special consideration to particular industries and sectors. Such criteria shall include, in particular, arrangements relating to the prospects of the industry for successful production integration.

4. COTED shall collaborate with competent agencies to assist the Member States in designing appropriate policy instruments to support industries, which may include effective export promotion policies, financing policies, incentives and technology policies.

5. In implementing the Community Industrial Policy, COTED shall have regard to the provisions of this Treaty relating to environmental protection.

6. The Member States undertake to establish and maintain appropriate macro-economic policies supportive of efficient production in the Community. In addition, they shall undertake to put in place arrangements for, inter alia:

(a) effective payment mechanisms;

(b) the avoidance of double taxation;

(c) harmonised legislation in relevant areas;

(d) the elimination of bureaucratic impediments to deployment of investments in industrial enterprises;

(e) the improvement of infrastructure and co-operation in the areas of air and maritime transport;

(f) communications systems.

7. In order to facilitate the implementation of the Community Industrial Policy, COTED shall, in collaboration with competent organs and agencies:

(a) develop strategies for the development and dissemination of market information and appropriate mechanisms to facilitate acquisition, storage and retrieval of such information;

(b) promote the establishment and development of capital markets in the Member States; and

(c) encourage the Member States to establish and develop export markets, especially in non-traditional sectors, through the development of sector-specific incentives and appropriate policy instruments.

8. For the purpose of this Article, "production integration" includes:

(a) the direct organisation of production in more than one Member State by a single economic enterprise;

(b) complementary production involving collaboration among several economic enterprises operating in one or more Member States to produce and use required inputs in the production chain; and

(c) co-operation among economic enterprises in areas such as purchasing, marketing, and research and development.

Article 53
Micro and Small Economic Enterprise Development

1. The Community shall adopt appropriate policy measures to encourage the development of competitive micro and small economic enterprises in the Member States.

2. Without prejudice to the generality of the foregoing, the competent Organ shall encourage policy initiatives and the establishment of effective programmes to foster a facilitative legal, economic, and administrative framework in the Member States to enhance micro and small economic enterprise development, and shall promote:

(a) the development of the capacities of national and regional support agencies for micro and small economic enterprises, including the creation of entrepreneurial centres, by organising technical assistance inclusive of planning, delivery and evaluation of support services to the sector;

(b) access to, improvement in the quality of, and opportunities for training and education in areas such as technical skills, entrepreneurial competence and business management for micro and small entrepreneurs;

(c) access by micro and small economic enterprises to the technical assistance provided by the support agencies;

(d) the establishment, development or modernising, as the case may require, of financial institutions to provide, to micro and small economic enterprises, services by way of appropriate and innovative instruments;

(e) innovation within the micro and small enterprise sector; and

(f) the creation of, and access to, trade and technology information networks.

3. For the purposes of this Article, micro and small economic enterprises shall be economic enterprises within the meaning of Article 32 that satisfy such other criteria as may be determined by the competent authorities.

Article 54
Development of the Services Sector

1. COTED shall, in collaboration with the appropriate Councils, promote the development of the services sector in the Community in order to stimulate economic complementarities among, and accelerate economic development in, the Member States. In particular, COTED shall promote measures to achieve:

(a) increased investment in services;

(b) increased volume, value and range of trade in services within the Community and with third States;

(c) competitiveness in the modes of delivering services; and

(d) enhanced enterprise and infrastructural development, including that of micro and small service enterprises.

2. In order to achieve the objectives set out in paragraph 1, the Member States shall, through the appropriate Councils, collaborate in:

(a) designing programmes for the development of human resources to achieve competitiveness in the provision of services;

(b) establishing a regime of incentives for the development of and trade in services; and

(c) adopting measures to promote the establishment of an appropriate institutional and administrative framework and, in collaboration with the Legal Affairs Committee, promote the establishment of the appropriate legal framework to support the services sector in the Community.

3. In the establishment of programmes and policies of the Community for the development of the services sector, the relevant Councils shall give priority to:

(a) the efficient provision of infrastructural services including telecommunications, road, air, maritime and riverain transportation, statistical data generation and financial services;

(b) the development of capacity-enhancing services including education services, research and development services;

(c) the development of services which enhance cross-sector competitiveness;

(d) the facilitation of cross-border provision of services which enhance the competitiveness of the services sector; and

(e) the development of informatics and other knowledge-based services.

Article 55
Sustainable Tourism Development

1. The Community shall, in collaboration with competent international organisations, formulate proposals for sustainable tourism development. These proposals shall recognise the importance of the tourism sub-sector to the economic development of the Region, and the need to conserve its cultural and natural resources and to maintain a balance between a healthy ecology and economic development.

2. The programme for sustainable tourism development shall have the following objectives:

(a) an enhanced image for the Region as a tourist destination;

(b) a diversified tourism product of a consistently high quality;

(c) an expanded market-base;

(d) education programmes designed to ensure that appropriate practices are pursued by service-providers;

(e) linkages with other sectors in the economy;

(f) conservation of the natural and cultural resources of the Region through proper management; and

(g) appropriate infrastructure and other services in support of tourism, considering the natural and social carrying-capacity of the Member States.

PART TWO - AGRICULTURAL POLICY

Article 56
The Community Agricultural Policy

1. The goal of the Community Agricultural Policy shall be:

(a) the fundamental transformation of the agricultural sector towards market-oriented, internationally competitive and environmentally sound production of agricultural products;

(b) improved income and employment opportunities, food and nutrition security, and poverty alleviation in the Community;

(c) the efficient cultivation and production of traditional and non-traditional primary agricultural products;

(d) increased production and diversification of processed agricultural products;

(e) an enlarged share of world markets for primary and processed agricultural products; and

(f) the efficient management and sustainable exploitation of the Region's natural resources, including its forests and the living resources of the exclusive economic zone,

bearing in mind the differences in resource endowment and economic development of the Member States.

Article 57
Implementation of the Community Agricultural Policy

1. For the achievement of the goal set out in Article 56, the Community shall, through competent Community Organs and Bodies, promote and support:

(a) the production, diversification, processing and marketing of agricultural products;

(b) the establishment of effective agricultural financing systems, including insurance, bearing in mind the special needs of artisanal fishers, small farmers, foresters and agro-processors;

(c) the establishment of linkages among the Member States with complementary natural resources, industries, agricultural skills and technical abilities;

(d) the development of human resources and delivery systems responsive to the requirements of the agricultural sector;

(e) the development of appropriate policies for the use of land and marine space with a view to increased agricultural production;

(f) appropriate land tenure systems to provide the farmer with security of tenure;

(g) the establishment of effective information and market intelligence services;

(h) research and development with a view to the adaptation, dissemination and application of appropriate technologies at all levels of the sector and all stages of production;

(i) the adoption of effective measures for rural enterprise development;

(j) public education to enhance the economic and social profiles of agriculture, particularly among the youth;

(k) the establishment of an effective regime of sanitary and phytosanitary measures;

(l) the establishment of a policy environment designed to attract investment to the agricultural sector; and

(m) technical co-operation and the dissemination of knowledge in agriculture.

2. For the purpose of assisting the Member States to implement the agricultural policy set out in paragraph 1, COTED shall establish effective support measures including:

(a) strengthening the relevant administrative and institutional framework to modernise and enhance the competitiveness of agriculture by:

(i) improving the capability of the Member States to undertake policy analysis, formulation, planning, execution and resource mobilisation for the development of the sector;

(ii) investigating and analysing developments in the agri-food sector; and

(iii) improvement of the collection, analysis and dissemination of empirical data and other relevant information;

(b) upgrading of national and regional capabilities in the areas of sustainable natural resources management;

(c) enhancement of the capabilities of the Member States in the areas of agricultural trade analysis and negotiations; and

(d) promotion of a mechanism for the collaboration of farmers, fishers, foresters and the social partners in agricultural development.

3. The Community shall:

(a) promote collaboration among the Member States and competent regional organisations in the areas of policy formulation and implementation of regional agricultural policies; and

(b) establish an effective regime to protect regional agricultural production from dumping, subsidisation and other unfair trading practices.

4. The Community shall, as a matter of priority, and in collaboration with national, regional and international agencies and organisations, promote and adopt measures relating, inter alia, to:

(a) the provision of appropriate inputs; and

(b) the development of infrastructure, such as port facilities, drainage, irrigation, access roads, post-harvest handling and marketing facilities.

Article 58
Natural Resource Management

1. The Community shall adopt effective measures to assist the Member States in the management of their natural resources in support of the transformation and sustainable development of the agricultural sector.

2. Without prejudice to the generality of paragraph 1 and to obligations of Member States under existing international agreements, the Community shall adopt measures for:

(a) the effective management of the soil, air and all water resources, the exclusive economic zone and all other maritime areas under the national jurisdiction of the Member States; and

(b) the conservation of biological diversity and the sustainable use of biological resources of the Member States, especially those of important medicinal and traditional value.

Article 59
Marketing of Agricultural Products

1. The Community shall, in collaboration with competent national, regional and international organisations, promote the development of effective agricultural marketing systems in order to respond to, influence and generate market demand for agricultural products of the Member States.

2. In effecting the promotion referred to in paragraph 1, the Community shall pay particular attention to:

(a) market information, intelligence and planning;

(b) improved post-harvest technology;

(c) risk insurance; and

(d) efficient distribution services.

3. In order to accomplish the objectives referred to in paragraph 1, the Community shall adopt measures to promote:

(a) the establishment of a regional market information system;

(b) the improvement of production and market information systems of the Member States in order to facilitate, inter alia, the efficient co-ordination of marketing strategies and systems;

(c) institutional arrangements including producer associations and joint venture marketing enterprises in order to respond to existing and changing market conditions;

(d) niche marketing;

(e) linkages between agriculture and other sectors in particular, the tourism sector;

(f) the identification and utilisation of sources of low cost alternative inputs;

(g) the establishment and adoption of regional standards and specifications compatible with international standards for products being traded;

(h) enhanced productivity and food quality;

(i) insurance coverage for primary agricultural products; and

(j) the development of efficient distribution services to facilitate intra-regional and extra-regional marketing.

4. In pursuance of the need to generate market demand for agricultural products of the Member States and to promote the agricultural development of the Less Developed Countries, the Member States shall agree to the arrangements for marketing oils and fats set out in Schedule III.

Article 60
Fisheries Management And Development

1. The Community, in collaboration with competent national, regional and international agencies and organisations, shall promote the development, management and conservation of the fisheries resources in and among the Member States on a sustainable basis.

2. The Community shall effect the promotion and facilitation referred to in paragraph 1 by:

(a) enhancing the institutional capabilities of the Member States in areas such as policy formulation, registration and management systems, resource monitoring and assessment, and harvesting and post-harvesting technologies;

(b) establishing mechanisms to provide assistance in:

(i) the development, management and conservation of the fisheries resources;

(ii) the discharge of obligations relating to fisheries resources arising under Articles 62, 63 and 64 of the United Nations Convention on the Law of the Sea (1982).

(c) effective regional representation at international fora;

(d) establishing development programmes for aquaculture;

(e) encouraging the establishment of protected aquatic habitats and associated terrestrial areas and fish populations for the sustainable development of fisheries resources of the Member States; and

(f) establishing, facilitating and strengthening research and human resource development at the professional, technical and vocational levels.

3. The Community shall collaborate with the Member States in:

(a) the management of straddling and highly migratory fish stocks;

(b) ongoing surveillance of their exclusive economic zones;

(c) the delimitation of maritime boundaries; and

(d) safeguarding their marine environment from pollutants and hazardous wastes.

4. Without prejudice to the provisions of Article 56, COFCOR shall promote the establishment of a regime for the effective management, conservation and utilisation of the living resources of the exclusive economic zones of the Member States.

5. For the purpose of this Article, "fisheries resources" includes all the fishable resources, natural and cultured, in the inland and internal waters, territorial seas and the exclusive economic zones of the Member States.

Article 61
Forest Management and Development

1. The Community shall, in collaboration with competent national, regional and international agencies and organisations, promote the development, management and conservation of the forest resources in the Member States on a sustainable basis.

2. The Community shall effect the promotion and facilitation referred to in paragraph 1 by formulating policies and programmes for:

(a) the management of its forest resources;

(b) the integration of forest development in rural communities;

(c) enhancing the institutional capabilities of the Member States to design and implement forest management systems;

(d) establishing, facilitating and strengthening programmes for research and for human resource development at the professional, technical and vocational levels;

(e) encouraging public and private sector participation in the development and application of technology;

(f) providing incentives for forestry development to stimulate domestic, regional and foreign investment in the forestry sub-sector;

(g) harmonising standards for quality assurance, compatible with international specifications;

(h) promoting commercialisation of natural forest products in a sustainable manner; and

(i) undertaking national forest inventories.

3. For the purposes of this Article, "forest resources" are those natural assets of forest lands, including timber and other forest products, biological diversity, recreation, fish and wildlife habitat, wilderness, flora and fauna, air, water and soil.

Article 62
Saving

The provisions of this Chapter are without prejudice to obligations of the Member States under existing international agreements.

PART THREE - COMMON SUPPORTIVE MEASURES

Article 63
Human Resources Development

1. Without prejudice to any other provision of this Treaty relating to human resources development, the COTED shall, in collaboration with the COHSOD, adopt measures to develop the Community's human resources which shall, inter alia, support its thrust toward international competitiveness in the development, production and delivery of goods and services.

2. The measures referred to in paragraph 1 of this Article shall be designed to address the economic, social and cultural aspects of human resources development, and shall include the following:

(a) development of programmes that will assist Community nationals in engendering the attitudes and acquiring the competence to function effectively;

(b) development of the skills and attitudes required to foster a culture of entrepreneurship;

(c) establishing and strengthening educational and training institutions for formal and informal modes of delivery and alternative modes for distance education;

(d) development of industry-oriented curricula designed to improve the competitiveness of regional industries; and

(e) promotion of multi-lingual skills at all levels for general education, with particular emphasis on the needs of the services sector.

3. The Community shall, in particular and on a continuing basis, adopt effective measures for the development of human resources to satisfy the requirements for cadres of skilled agricultural personnel at all levels in the Member States.

4. For the purposes of paragraph 3, provision shall be made to:

(a) monitor and evaluate, on an on-going basis, the demand for, and appropriateness of agricultural education and training;

(b) establish training programmes in the agricultural sector;

(c) develop effective delivery of in-field training for farmers, foresters and fishers; and

(d) improve the facilities and strengthen the capabilities of regional training institutions and national administrations in support of agricultural development.

5. In performing the functions referred to in paragraph 4 of this Article, the Community shall collaborate with education and training institutions and relevant regional and international organisations in developing harmonised agricultural syllabuses, training materials and case studies in key areas of farming, fisheries and forestry utilising distance education technology where appropriate.

Article 64
Research and Development

1. COTED shall promote market-led research, technological development and adaptation of technology in the Community in order to support the production, on a sustainable basis, of goods and services in the Member States with a view to diversifying such production and enhancing its international competitiveness.

2. In the discharge of its mandate set out in paragraph 1 of this Article, COTED shall adopt measures to encourage, inter alia, inventions and innovation, and acquisition, transfer, assimilation, adaptation and diffusion of technologies in the Community. Without prejudice to the generality of the foregoing, COTED shall:

(a) encourage public and private sector agencies, research establishments and tertiary institutions in their research and technological development activities and assist in identifying sources of funding for such activities;

(b) promote co-operation in research and technological development among the Member States and with third States and competent international organisations;

(c) facilitate co-operation:

(i) in training;

(ii) in the exchange of scientific and technical information among competent institutions;

(iii) in the free movement of researchers in the Community;

(iv) among private sector enterprises to integrate the results of research and development in the production process;

(v) develop and implement technological policies and strategies, having due regard for the importance of technology management and protection of intellectual property rights;

(e) facilitate access by Community nationals to technological and research facilities of Member States; and

(f) promote the development of technology extension services.

3. In particular, COTED shall promote and encourage research and development, and the adaptation, diffusion and transfer of appropriate technologies in order to achieve increased agricultural production and productivity, bearing in mind the need to protect the independence and human rights of the farming community.

4. COTED shall, in collaboration with competent public and private sector research and development institutions, encourage and assist Member States:

(a) to facilitate access to and use of new and appropriate technologies in the agricultural sector;

(b) to develop:

(i) efficient systems for the generation and transfer of ppropriate technologies; and

(ii) technological and institutional capabilities in the public and private sectors,

compatible with competitive and sustainable agricultural production.

5. In the pursuit of its functions under this Article, COTED shall encourage the private sector to play a vital role in:

(a) the development, adaptation and transfer of appropriate technologies in the agricultural sector; and

(b) the development of producer associations as a basis for autonomous action and intra-regional transfer of technologies and research findings.

6. COTED shall co-operate with the Member States and competent organisations to devise means of protecting, developing and commercialising local knowledge about the value and use of the Region's biodiversity for the benefit of their populations, especially their indigenous peoples.

Article 65
Environmental Protection

1. The policies of the Community shall be implemented in a manner that ensures the prudent and rational management of the resources of the Member States. In particular, the Community shall promote measures to ensure:

(a) the preservation, protection and improvement of the quality of the environment;

(b) the protection of the life and health of humans, animals and plants; and

(c) the adoption of initiatives at the Community level to address regional environmental problems.

2. In formulating measures in relation to the environment, the Community shall take account of:

(a) available and accessible scientific and technical data;

(b) environmental conditions in the Member States;

(c) the potential costs and benefits of action or inaction;

(d) the economic and social development of the Community as a whole and the balanced development of the Member States;

(e) the precautionary principle and those principles relating to preventive action, rectification of environmental damage at source and the principle that the polluter pays; and

(f) the need to protect the Region from the harmful effects of hazardous materials transported, generated, disposed of or shipped through or within the Community.

3. In performing its functions under this Treaty, COTED shall ensure a balance between the requirements of industrial development and the protection and preservation of the environment.

4. In giving effect to this Article, the Community and the Member States shall, within their respective spheres of competence, co-operate with third States and competent environmental organisations.

Article 66
Protection of Intellectual Property Rights

COTED shall promote the protection of intellectual property rights within the Community by, inter alia:

(a) the strengthening of regimes for the protection of intellectual property rights and the simplification of registration procedures in the Member States;

(b) the establishment of a regional administration for intellectual property rights except copyright;

(c) the identification and establishment, by the Member States of mechanisms to ensure:

(i) the use of protected works for the enhanced benefit of the Member States;

(ii) the preservation of indigenous Caribbean culture; and

(iii) the legal protection of the expressions of folklore, other traditional knowledge and national heritage, particularly of indigenous populations in the Community;

(d) increased dissemination and use of patent documentation as a source of technological information;

(e) public education;

(f) measures to prevent the abuse of intellectual property rights by rights-holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology; and

(g) participation by the Member States in international regimes for the protection of intellectual property rights.

Article 67
Standards and Technical Regulations

1. COTED shall, in collaboration with competent agencies, develop a standardisation programme in furtherance of the objectives of this Chapter and consistent with the international obligations of the Member States.

2. In implementing the programme, the Member States shall not use standards, technical regulations and conformity assessment procedures as barriers to trade.

3. The programme shall have the following objectives:

(a) trade facilitation;

(b) enhanced efficiency in the production and delivery of goods and services;

(c) improved quality of goods and services traded within the Community and with third States; and

(d) consumer and environmental protection.

4. The programme shall include the following elements:

(a) harmonisation of standards and technical regulations, and transparency in the development and promulgation of standards and technical regulations;

(b) recognition of conformity assessment procedures through mutual recognition agreements or other means;

(c) facilitation of standards infrastructure development at the national and regional levels;

(d) facilitation of metrology infrastructure development; and

(e) arrangements for the exchange of information with respect to development and implementation of standards and technical regulations among the parties to this Treaty.

5. The Community shall promote the establishment of a regional standards body which shall, inter alia:

(a) facilitate implementation of the standardisation programme;

(b) assist the Member States in understanding and fulfilling their obligations under this Treaty and other international agreements;

(c) promote the development of national standards bodies in the Member States; and

(d) facilitate access to technical assistance available in the Member States and in third States.

6. For the purposes of this Article, the following definitions apply:

(a) "technical regulations" means regulations which lay down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. The term may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method.

(b) "standard" means a guideline approved by a recognised body, that provides, for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory. The term may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method.

(c) "conformity assessment procedures" includes any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

Article 68
Community Investment Policy

COTED in collaboration with COFAP and COHSOD shall establish a Community Investment Policy which shall include sound national macro-economic policies, a harmonised system of investment incentives, stable industrial relations, appropriate financial institutions and arrangements, supportive legal and social infrastructure and modernisation of the role of public authorities.

Article 69
Harmonisation of Investment Incentives

1. The Member States shall harmonise national incentives to investments in the industrial, agricultural and services sectors.

2. COFAP shall, consistently with relevant international agreements, formulate proposals for the establishment of regimes for the granting of incentives to enterprises in the sectors mentioned in paragraph 1. In particular, such proposals shall accord support for industries considered to be of strategic interest to the Community.

3. In formulating the proposals mentioned in paragraph 2, COFAP shall give due consideration to the peculiarities of the industries concerned and, without prejudice to the generality of the foregoing, may provide for the following:

(a) national incentives to investment designed to promote sustainable, export-led industrial and service-oriented development;

(b) investment facilitation through the removal of bureaucratic impediments; and

(c) non-discrimination in the granting of incentives among Community nationals.

Article 70
Macro-Economic Policies

1. COFAP shall formulate proposals and adopt appropriate measures to promote a sound macro-economic environment in the Member States, consistent with their obligations under this Treaty and applicable international agreements.

2. COFAP shall, in collaboration with other competent Organs, promote economic development in the Member States through the development and application of convergent macro-economic policies to ensure fiscal discipline, favourable balance-of-payments, stable currencies and moderate prices without prejudice to securing high levels of employment.

3. COFAP shall collaborate with COFCOR and COTED in co-ordinating:

(a) the economic policies of the Member States; and

(b) the positions and presentations of the Member States in all international economic, financial and trade meetings at which they are represented.

4. In support of the development of macro-economic policies, the Community shall provide for harmonisation of the output of the statistical services of the Member States.

Article 71
Financial Infrastructure

COFAP shall adopt proposals for the establishment of financial infrastructure supportive of investments in the Community. In particular, COFAP shall assist the Member States in establishing capital markets, financial institutions and appropriate financial instruments to facilitate capital investment on a sustainable basis.

Article 72
Double Taxation Agreements

1. The Member States shall conclude among themselves an agreement for the avoidance of double taxation in order to facilitate the free movement of capital in the Community.

2. The Member States shall conclude their double taxation agreements with third States on the basis of mutually agreed principles which shall be determined by COFAP.

Article 73
Industrial Relations

COHSOD shall, in consultation with COTED, formulate proposals and adopt appropriate measures for the promotion of harmonious, stable and enlightened industrial relations in the Community. In formulating such measures and proposals, COHSOD shall, *inter alia*, promote:

(a) the objectives of full employment, improved living and working conditions; adequate social security policies and programmes; tripartite consultations among governments, workers' and employers' organisations; and cross-border mobility of labour;

(b) recognition of the principle of non-discriminatory treatment among Community workers in the pursuit of employment within the Community;

(c) the establishment and maintenance of effective mechanisms for the enhancement of industrial relations, particularly that of collective bargaining; and

(d) awareness among Community workers and employers that international competitiveness is essential for social and economic development of Member States and requires collaboration of employers and workers for increased production and productivity in Community enterprises.

Article 74
Legal Infrastructure

1. The Legal Affairs Committee shall co-operate with competent Organs of the Community to advise the Member States on the legal infrastructure required to promote investments in the Member States, including cross-border investments, bearing in mind the provisions of Article 68.

2. The Member States shall harmonise their laws and administrative practices in respect of, inter alia:

(a) companies or other legal entities;
(b) intellectual property rights;
(c) standards and technical regulations;
(d) labelling of food and drugs;
(e) sanitary and phytosanitary measures;
(f) competition policy;
(g) dumping;
(h) subsidies and countervailing measures; and
(i) commercial arbitration.

Article 75
Development of Social Infrastructure

1. In establishing its industrial policy, the Community shall promote appropriate measures for the establishment of adequate social infrastructure, the alleviation of poverty, and securing social stability in the Member States.

2. Without prejudice to the generality of the foregoing, the Community shall promote in the Member States:

(a) the establishment and improvement of health, education, sports and social security institutions and facilities;

(b) conclusion of reciprocal social security agreements among Member States in order to facilitate the movement of skills; and

(c) training and retraining of workers, mobility of instructors and trainees, co-operation among educational and training institutions, and the development of distance education.

3. The Member States shall engender an understanding and appreciation of the Community through effective public relations, educational, cultural and youth exchange programmes.

Article 76
Role of Public Authorities

COTED shall promote the modernisation of government bureaucracies by, *inter alia*:

(a) encouraging the development of closer contacts between public sector administrations, industry and other stakeholders to ensure that challenges presented by the global environment are understood and co-operative solutions developed;

(b) removing impediments and improving the regulatory framework for economic enterprises at national and regional levels;

(c) encouraging cost-effectiveness in the delivery of services to the public; and

(d) proposing adequate arrangements to address the changes in the business environment and future challenges to industry.

Article 77
Special Provisions for Less Developed Countries

Where in this Chapter Member States or competent Organs are required to adopt measures for the achievement of the Community Industrial Policy, the special needs and circumstances of the Less Developed Countries shall be taken into account.

CHAPTER FIVE - TRADE POLICY

PART ONE - PRELIMINARY

Article 78
Objectives of the Community Trade Policy

1. The goal of the Community Trade Policy shall be the sustained growth of intra-Community and international trade and mutually beneficial exchange of goods and services among the Member States and between the Community and third States.

2. In fulfilment of the goal set out in paragraph 1 of this Article the Community shall pursue the following objectives:

(a) full integration of the national markets of all Member States of the Community into a single unified and open market area;

(b) the widening of the market area of the Community;

(c) the active promotion of export of internationally competitive goods and services originating within the Community;

the securing of the most favourable terms of trade for Community goods and services exported to third States and groups of States.

3. In order to achieve the objectives of its Trade Policy, the Community shall:

(a) undertake:

(i) the establishment of common instruments, common services and the joint regulation, operation and efficient administration of the internal and external commerce of the CSME;

(ii) where possible, the employment of common negotiating strategies in the development of mutually beneficial trade agreements with third States and groups of States;

(iii) participation and joint representation as appropriate in international and regional organisations which negotiate, establish and apply disciplines governing international and regional trade;

(b) prohibit the imposition by the Member States of new restrictions on imports and exports of products of Community origin.

4. Member States shall eliminate existing restrictions on imports and exports of goods of Community origin, other than those authorised by this Treaty.

Article 79
General Provisions on Trade Liberalisation

1. The Member States shall establish and maintain a regime for the free movement of goods and services within the CSME.

2. Each Member State shall refrain from trade policies and practices, the object or effect of which is to distort competition, frustrate free movement of goods and services, or otherwise nullify or impair benefits to which other Member States are entitled under this Treaty.

3. The Member States shall not introduce in their territories any new restrictions on imports or exports of Community origin save as otherwise provided in this Treaty.

Article 80
Co-ordination of External Trade Policy

1. The Member States shall co-ordinate their trade policies with third States or groups of third States.

2. The Community shall pursue the negotiation of external trade and economic agreements on a joint basis in accordance with principles and mechanisms established by the Conference.

3. Bilateral agreements to be negotiated by Member States in pursuance of their national strategic interests shall:

(a) be without prejudice to their obligations under the Treaty; and

(b) prior to their conclusion, be subject to certification by the CARICOM Secretariat that the agreements do not prejudice or place at a disadvantage the position of other CARICOM States vis-a-vis the Treaty.

4. Where trade agreements involving tariff concessions are being negotiated, the prior approval of COTED shall be required.

5. Nothing in this Treaty shall preclude Belize from concluding arrangements with neighbouring economic groupings provided that treatment not less favourable than that accorded to third States within such groupings shall be accorded to the Member States of the Community, and that the arrangements make adequate provision to guard against the deflection of trade into the rest of CARICOM from the countries of such groupings through Belize.

Article 81
Deposit of Agreements with Third Countries

The Member States shall deposit with the Secretariat, agreements relating to trade or aid concluded by them with third countries.

PART TWO - TRADE LIBERALISATION

Article 82
Establishment of Common External Tariff

The Member States shall establish and maintain a common external tariff in respect of all goods which do not qualify for Community treatment in accordance with plans and schedules set out in relevant determinations of COTED.

Article 83
Operation of the Common External Tariff

1. Any alteration or suspension of the Common External Tariff on any item shall be decided by COTED.

2. Where:

(a) a product is not being produced in the Community;

(b) the quantity of the product being produced in the Community does not satisfy the demand of the Community; or

(c) the quality of the product being produced in the Community is below the Community standard or a standard the use of which is authorised by COTED,

COTED may decide to authorise the reduction or suspension of the Common External Tariff in respect of imports of that product subject to such terms and conditions as it may decide, provided that in no case shall the product imported from third States be accorded more favourable treatment than similar products produced in the Member States.

3. The authority referred to in paragraph 2 to suspend the Common External Tariff may be exercised by the Secretary-General on behalf of COTED during any period between meetings of COTED. Any exercise of such authority by the Secretary-General shall be reported to the next meeting of COTED.

4. Each Member State shall, for the purpose of administering the Common External Tariff, appoint a competent authority which shall be notified to COTED.

5. COTED shall continuously review the Common External Tariff, in whole or in part, to assess its impact on production and trade, as well as to secure its uniform implementation throughout the Community, in particular, by reducing the need for discretionary application in the day to day administration of the Tariff.

Article 84
Community Rules of Origin

1. Subject to the provisions of this Article, goods that have been consigned from one Member State to a consignee in another Member State shall be treated as being of Community origin, where the goods:

(a) have been wholly produced within the Community; or

(b) have been produced within the Community wholly or partly from materials imported from outside the Community or from materials of undetermined origin by a process which effects a substantial transformation characterised:

(i) by the goods being classified in a tariff heading different from that in which any of those materials is classified; or

(ii) in the case of the goods set out in the List in Schedule I to this Treaty (hereinafter referred to as "the List"), only by satisfying the conditions therefor specified.

2. Goods that have been consigned from one Member State to a consignee in another Member State for repair, renovation or improvement shall, on their return to the Member State from which they were exported, be treated for the purpose of re-importation only, in like manner as goods which are of Community origin, provided that the goods are reconsigned directly to that Member State from which they were exported and the value of materials imported from outside the Community or of undetermined origin which have been used in the process of repair, renovation or improvement does not exceed:

(a) in the case where the goods have undergone the process of repair, renovation or improvement in a More Developed Country, 65 per cent of the cost of repair, renovation or improvement;

(b) in the case where the goods have undergone the process of repair, renovation or improvement in a Less Developed Country, 80 per cent of the cost of repair, renovation or improvement.

3. Where there is an interruption or inadequacy of supplies of regional materials and the manufacturer of goods, for which the qualifying condition for Community origin is that of "wholly produced" or "produced from regional materials", is unable by reason of circumstances beyond his control to obtain supplies of the regional materials, he shall so inform the competent authority.

4. The competent authority shall:

(a) after receipt of information from the manufacturer, cause investigations to be made into the matter, and if he is satisfied that the representation from the manufacturer is justified, submit to the Secretary-General in the prescribed instrument an application for a certificate provided for in this Article;

(b) at the time of making the application, inform the other Member States of the inability of the manufacturer to obtain the supplies of the required materials from within the Community with respect to quantities and specifications of the materials sought and the period during which the materials are required.

5. The Secretary-General shall, on receipt of the application from the competent authority:

(a) forthwith make the relevant enquiries by the quickest possible means from the competent authorities in the other Member States as to their ability to supply the materials required by the manufacturer; and

(b) request a reply to the enquiry from each competent authority within seven calendar days of the despatch of his enquiry.

6. A competent authority shall reply to the enquiry referred to in paragraph 5 within the time specified.

7. Where the Secretary-General, on the basis of his investigations, is satisfied that the application received from the competent authority justifies favourable consideration, he shall, notwithstanding that he may not have received a reply to his enquiry from one or more Member States, within fourteen calendar days after the receipt of the application from the competent authority, issue, on behalf of COTED, a certificate to the competent authority authorising the use of like materials from outside the Community, subject to such conditions as he may think fit to impose.

8. The Secretary-General shall inform the Member States of the issue of his certificate, including any conditions attaching thereto and that notwithstanding anything to the contrary in the provisions of this Article, goods manufactured from like materials imported from outside the Community shall be deemed to be of Community origin.

9. A Member State may treat as of Community origin any imports consigned from another Member State, provided that the like imports consigned from any other Member State are accorded the same treatment. Member States concerned shall promptly inform COTED of any trading arrangements concluded pursuant to this paragraph and COTED may, as it thinks fit, recommend to the Member States concerned the adoption of alternative trading arrangements.

10. The provisions of Schedule I shall apply to and have effect for the purposes of this Article. COTED shall keep the Schedule and, in particular, the List under continuous review, and may amend the Schedule in order to ensure the achievement of the objectives of the Community.

11. The issue of a certificate in accordance with paragraph 7 shall be reported by the Secretary-General to COTED at the Meeting of COTED next following the date of issue thereof.

Article 85
Export Promotion

1. COTED shall adopt appropriate measures for the promotion and export of goods and services.

2. In the implementation of measures to promote exports, COTED shall give consideration to:

(a) the establishment and maintenance of effective trade information systems and services;

(b) the design and implementation of trade facilitation programmes including the conduct of market research and the organisation of trade missions;

(c) the co-ordination and support of the active participation of the Member States in international trade promotion fora, including trade fairs and exhibitions.

Article 86
Freedom of Transit

1. The Member States shall grant freedom of transit within the Community with respect to goods and vessels and other vehicles transporting those goods.

2. For the purpose of paragraph 1 of this Article, transit means the passage of goods and of vessels and aircraft and vehicles transporting those goods:

(a) through or across the frontier of a Member State;

(b) with or without transhipment, warehousing, breaking bulk or change of mode of transport,

where the passage is only a portion of a journey beginning and terminating beyond its frontier.

3. In granting freedom of transit within the meaning of paragraph 2, the Member States:

(a) shall ensure that there are no unnecessary delays or restrictions and that goods, vessels, aircraft and vehicles transporting those goods are subject only to charges for transport, handling, and other services rendered;

(b) shall not discriminate based on the flag of vessels, place of origin, departure, entry, exit or destination or any circumstance relating to the ownership of goods, vessels, or aircraft or vehicles;

(c) shall, with respect to regulations, formalities, fees and other service charges in connection with the transit, ensure that treatment extended to any Member State is on terms no less favourable than those extended to all other Member States.

Article 87
Import Duties

1. Save as otherwise provided in this Treaty, Member States shall not impose import duties on goods of Community origin.

2. Nothing in paragraph 1 of this Article shall be construed to extend to the imposition of non-discriminatory internal charges on any products or a substitute not produced in the importing Member State.

3. This Article does not apply to fees and similar charges commensurate with the cost of services rendered.

4. Nothing in paragraph 3 of this Article shall be construed to exclude from the application of paragraph 1 of this Article any tax or surtax of customs on any product or a substitute not produced in the importing State.

Article 88
Prohibition of Export Duties

1. The Member States shall not apply any export duties on goods of Community origin traded within the Community.

2. Nothing in this Article shall prevent a Member State from taking such measures as are necessary to prevent evasion of export duties which are applied to products destined for export outside of the Community where such products are re-exported through another Member State.

3. For the purposes of this Article, "export duties" means any duties or charges with equivalent effect imposed on or in connection with the exportation of goods.

Article 89
Export Drawback

1. A Member State may refuse to treat as of Community origin goods which benefit from export drawback allowed by other Member States. In applying this paragraph, a Member State shall accord the same treatment to such goods consigned from all other Member States.

2. Whenever a Member State intends to apply an export drawback within the meaning of paragraph 6, it shall notify COTED.

3. The Member State shall, at the time of notification, set out the circumstances which justify the need to apply an export drawback, the products which will benefit therefrom, the nature and proposed duration of the measures, and such other information as COTED may prescribe from time to time.

4. COTED shall give its earliest consideration to the notification referred to in paragraph 3 and make a determination of the appropriateness of the measures and, if it is not satisfied, may recommend that the Member State which intends to apply an export drawback, modify the programme.

5. COTED shall review annually all export drawback programmes maintained by Member States.

6. For the purposes of this Article -

(a) 'export drawback' means any arrangement for the refund or remission, wholly or in part, of import duties applicable to imported materials: provided that the arrangement, expressly or in effect, allows refund or

remission if certain goods or materials are exported, but not if they are retained for home use;

(b) 'remission' includes exemption for materials brought into free ports and other places which have similar customs privileges;

(c) 'duties' means:

(i) all charges on or in connection with importation, except fiscal charges to which Article 80 applies; and

(ii) any protective element in such fiscal charges;

(d) 'materials' shall have the meaning assigned to it in Rule I of Schedule I to this Treaty.

Article 90
Internal Taxes and Other Fiscal Charges

1. Save as otherwise provided in this Treaty, Member States shall not:

(a) apply directly or indirectly to imported goods of Community origin any fiscal charges in excess of those applied directly or indirectly to like domestic goods, or otherwise apply such charges so as to protect like domestic goods; or

(b) apply fiscal charges to imported goods of Community origin of a kind which they do not produce, or which they do not produce in substantial quantities, in such a way as to protect the domestic production of substitutes which enter into direct competition with them and which do not bear, directly or indirectly, in the country of importation, fiscal charges of equivalent incidence.

2. A Member State shall notify COTED of all fiscal charges applied by it where, although the rates of charge, or the conditions governing the imposition or collection of the charge, are not identical in relation to the imported goods and to the like domestic goods, the Member State applying the charge considers that the charge is, or has been made, consistently with sub-paragraph (a) of paragraph 1 of this Article. A Member State shall, at the request of any other Member State, supply information about the application of paragraph I of this Article.

3. For the purposes of this Article 'fiscal charges' means internal taxes and other internal charges with equivalent effect on goods.

Article 91
Quantitative Restrictions

1. Save as otherwise provided in this Treaty, and in particular Articles 88, 89 and 90, and in Schedules II, III and IV, a Member State shall not apply any quantitative restrictions on the importation of goods which are of Community origin.

2. Except as otherwise provided in this Treaty, and particularly in Articles 89 and 90, and in Schedule III, a Member State shall not apply any quantitative restrictions on exports to any other Member State.

3. This Article shall not prevent any Member State from taking such measures as are necessary to prevent evasion of any prohibitions or restrictions which it applies to imports from or exports to third States provided that less favourable treatment is not granted to Member States than to countries outside the Community.

4. "Quantitative restrictions" means prohibitions or restrictions on imports into, or exports from, any other Member State, as the case may be, whether made effective through quotas, import licences or other measures with equivalent effect, including administrative measures and requirements restricting imports or exports.

Article 92
Difficulties Occasioned by Particular Imports

1. Subject to Article 150, wherever imports of any product, including any primary agricultural product, into a Member State cause serious injury or the threat of serious injury to domestic producers of like or directly competitive products in any industry or specific sector of any industry, the importing Member State shall be free to impose restrictions in respect of such product if:

(a) the import of the product in question results in a substantial decrease in demand for the like or directly competitive product produced within its jurisdiction; and

(b) the decrease in demand is directly linked to an increase in imports consigned from another Member State.

2. Where a Member State decides to exercise its rights under paragraph I, it may provisionally, until a determination by COTED is made:

(a) limit imports of the product of Community origin by means of quantitative restrictions at a rate not less than the rate of such imports during any period of 12 months which ended 12 months before the date on which the restrictions entered into force;

(b) take such other measures either instead of or in addition to quantitative restrictions in accordance with sub-paragraph (a) as COTED may authorise.

3. In applying the restrictions in accordance with paragraph 2, a Member State shall not discriminate among the sources of supply or the nationality of suppliers, and shall give consideration to the proportionate share of the market previously enjoyed by each Member State.

4. Where a Member State:

(a) intends to act in accordance with paragraph 2, it shall, prior to taking such action, enter into consultations with affected Member States and notify COTED of that intention and the nature of the action;

(b) is unable to comply with sub-paragraph (a) of this paragraph, it shall, in taking the action, immediately notify COTED of the application and the nature of the action.

5. The Member State at the time of taking such action in accordance with paragraph 2 shall submit to COTED:

(a) such information as is reasonably available, including:

(i) the identity of the producers and the length of time during which the producers of the like or directly competitive product have been in production;

(ii) a complete description of the product and the annual volume of production;

(iii) an estimate of the size by volume of the domestic market, the share by volume in the domestic market of the domestic product, imports from other Member States and from third States;

(iv) information on changes in the level of sales and employment for the periods comparable to the periods during which imports have increased; and

(v) any other information as COTED may from time to time prescribe;

(b) a programme setting out the measures to be taken to assist the domestic producers to alleviate the difficulties they face and to restore their position in the domestic market.

6. COTED shall give its earliest consideration to the submission made under paragraph 5, and:

(a) make a determination of the appropriateness of the restrictions and whether they shall be continued;

(b) where it decides that the restrictions shall be continued, determine the adequacy of the programme and the period for which the restrictions shall continue.

7. Restrictions applied by a Member State pursuant to paragraph 2 shall be confined to those necessary to forestall a threat of serious injury or otherwise eliminate injury.

8. The Member States in applying restrictions pursuant to paragraph 2 shall not discriminate and:

(a) shall progressively relax them as the relevant conditions improve;

(b) may maintain them only to the extent that the conditions mentioned in paragraph 1 of this Article continue to justify their application.

9. If a Member State has demonstrated that the imposition of measures by another Member State under paragraph 2 has caused injury or the threat of serious injury to domestic producers in its jurisdiction, then the first mentioned Member State may request consultation with the Member State maintaining the restrictions and notify COTED accordingly.

10. Where the consultations do not result in a mutually agreed solution, the matter may be referred to COTED for a determination.

11. If COTED is not satisfied that the Member States applying restrictions are acting in accordance with the provisions of paragraph 7, it may recommend to the Member State adversely affected thereby, alternative arrangements to the same end.

Article 93
Government Assistance To Economic Development

1. Except as otherwise provided in this Treaty, a Member State shall not maintain or introduce:

(a) the forms of assistance to export of goods to any other part of the Community which are described in Schedule V; or

(b) any other forms of assistance, the main purpose or effect of which is to frustrate the benefits expected from such removal or absence of duties and quantitative restrictions as is required by this Treaty.

2. If the application of any type of assistance by a Member State, although not contrary to paragraph 1(b) of this Article, nevertheless frustrates the benefits expected from such removal or absence of duties and quantitative restrictions as is required by this Treaty, COTED may authorise any Member State to suspend, in relation to the Member State which is applying the assistance, the application of such obligations under this Treaty as the COTED considers appropriate.

3. COTED may amend the provisions of Schedule V.

Article 94
Public Undertakings

1. Except as otherwise provided in this Treaty, Member States shall ensure the elimination in the practices of public undertakings of :

(a) measures the effect of which is to afford protection to domestic production and which would be inconsistent with this Treaty if achieved by means of a duty or charge with equivalent effect or quantitative restrictions or Government assistance; or

(b) trade discrimination on grounds of territorial origin in so far as it frustrates the benefits expected from the removal or absence of such charges, duties and quantitative restrictions as is required by this Treaty.

2. In so far as Article 92 is relevant to the activities of public undertakings, that Article shall apply to them in the same way as it applies to other enterprises.

3. Where a public undertaking has introduced a measure or practice which:

(a) is inconsistent with paragraph 1; or

(b) in law or in effect, results in limiting access to any market, distorts competition or fair trade, or otherwise nullifies or impairs benefits expected from the establishment of the CSME,

then, in such a case, the aggrieved Member State may request consultations with the offending Member State and promptly notify COTED of the request.

4. The Member State alleged to have introduced a measure or practice within the meaning of paragraph 3 shall give favourable consideration to a request for consultations by the aggrieved Member State with a view to resolving their differences and arriving at a mutually acceptable solution.

5. If no mutually acceptable solution is reached within 30 days of the date of request for consultations, the aggrieved Member State may refer the matter to COTED, which shall cause an investigation to be carried out into the circumstance giving rise to the complaint; the investigation is to be completed within 60 days of the date of receipt of the complaint by COTED.

6. COTED shall, upon receipt of the report arising from the investigation, make available the report to the Member States concerned to facilitate consultations and to permit them to reach a mutually acceptable solution.

7. If no mutually acceptable solution is reached at the end of 15 days starting from the date of submission of the report by COTED to the parties concerned and COTED is satisfied that the rights of the aggrieved Member States under paragraph 1 have been unreasonably denied, then COTED shall request the offending Member State to withdraw the measure or practice, as the case may be.

8. If the offending Member State referred to in paragraph 7 fails to comply with the request of COTED within 60 days of the date thereof, then COTED may authorise the Member States to suspend, in relation to the Member State which is applying the measure or practice, the application of such provisions of this Treaty as COTED may decide.

9. The Member States shall ensure that new practices of the kind described in paragraph 3 of this Article are not introduced.

10. For the purposes of this Article, 'public undertakings' means central, regional, or local government authorities, public enterprises and any other organisation by means of which a Member State by law or in practice controls or appreciably influences imports from, or exports to any other part of the Community.

Article 95
Co-operation in Customs Administration

1. The Member States shall co-operate with each other to ensure that their interpretation and application of Articles 82, 83, 84, 86, 87, 88, 89, 90, 93 and Schedule I are effectively and harmoniously applied, particularly with respect to provisions relating to:

(a) effective customs systems and procedures governing the movement of goods, people and conveyances across customs borders;

(b) maximising the effectiveness of co-operation among customs administrations and with international agencies to combat customs and other cross-border offences.

2. The Member States undertake to establish harmonised customs legislation and customs procedures in accordance with the provisions of this Chapter.

3. COTED shall establish procedures for co-operation in customs administration as described in paragraph 1 of this Article.

PART THREE - SUBSIDIES

Article 96
Determination of a Subsidy

For the purpose of this Part, a subsidy shall be deemed to exist if there is a financial contribution by a Government or any public body within the territory of a Member State (hereinafter referred to as "government") where:

(a) a government practice involves direct transfer of funds (e.g., grants, loans and equity infusion) or potential direct transfer of funds or liabilities (e.g., loan guarantees);

(b) government revenue that is otherwise due is foregone or not collected (e.g., fiscal incentives, such as tax credits);

(c) a government purchases goods or provides goods or services other than general infrastructure;

(d) a government makes payments to a funding mechanism, or directs or entrusts to a private body the conduct of activities mentioned in sub-paragraphs (a), (b) and (c) which are normally conducted by governments;

(e) there is any form of income or price support,

and a benefit is thereby conferred.

Article 97
Types of Subsidies

1. A subsidy within the meaning of Article 96 shall be categorised as follows:

(a) a prohibited subsidy;

(b) a subsidy which:

(i) causes injury to a domestic industry; or

(ii) results in nullification or impairment of benefits accruing directly or indirectly to any Member State; or

(iii) seriously prejudices the interests of any Member State; or

(c) a subsidy which causes serious adverse effects to a domestic industry of any Member State such as to cause damage which would be difficult to repair:

Provided that the subsidy is specific to an enterprise or industry or group of enterprises or industries within the jurisdiction of the granting Member State.

2. For the purpose of this Chapter a determination of whether a subsidy as defined in Article 92 is specific shall be governed by the following:

(a) in order to determine whether a subsidy referred to in paragraph 1 of this Article is specific to an enterprise or industry or group of enterprises or industries (referred to in this Part as "certain enterprises") within the jurisdiction of the granting authority, the following criteria shall apply:

(i) where the granting authority, or the legislation pursuant to which the granting authority operates, explicitly limits access to a subsidy to certain enterprises, such a subsidy shall be specific;

(ii) where the granting authority, or the legislation pursuant to which the granting authority operates, establishes objective criteria or conditions governing the eligibility for, and the amount of, a subsidy, specificity shall not exist, provided that the eligibility is automatic and that such criteria and conditions are strictly adhered to. The criteria or conditions must be clearly spelled out in law, regulation, or other official document, so as to be capable of verification;

(iii) if, notwithstanding any appearance of non-specificity resulting from the application of the principles laid down in sub-sub-paragraphs (i) and (ii), there are reasons to believe that the subsidy may in fact be specific, other factors may be considered. Such factors are: use of a subsidy programme by a limited number of certain enterprises, predominant use of certain enterprises, the granting of disproportionately large amounts of subsidy to certain enterprises, and the manner in which discretion has been exercised by the granting authority in the decision to grant a subsidy. In applying this sub-paragraph, account shall be taken of the extent of diversification of economic activities within the jurisdiction of the granting authority, as well as of the length of time during which the subsidy programme has been in operation;

(b) a subsidy which is limited to certain enterprises located within a designated geographical region within the jurisdiction of the granting authority shall be specific. It is understood that the setting or change of generally applicable tax rates by all levels of government entitled to do so shall not be deemed to be a specific subsidy for the purposes of this Part;

(c) any subsidy falling under the provisions of Article 99 shall be deemed to be specific;

(d) any determination of specificity under the provisions of this Article shall be clearly substantiated on the basis of positive evidence.

Article 98
Entitlement to Take Action
Against Subsidised Products

1. A Member State may take action against subsidised products where:

(a) the products have benefited from a prohibited subsidy;

(b) the subsidy is specific and has caused any of the effects referred to in Article 112; and

(c) the subsidy is specific and does not conform to the provisions of Article 108.

2. Notwithstanding the provisions of paragraph 1, a Member State shall not take definitive action against products which are believed to be benefitting from subsidies referred to in Article 97 if the Member State aggrieved thereby has not:

(a) promulgated legislation to permit the introduction of counter measures or countervailing duties against subsidised imports;

(b) consulted with the Member State which is alleged to have introduced or to be maintaining subsidies identified in Article 97;

(c) notified COTED of the alleged subsidisation based on preliminary investigations and failure of consultations; and

(d) received authorisation from COTED to introduce countervailing duties or countermeasures as a result of a definitive determination of the existence of prohibited subsidies which cause nullification, impairment, serious prejudice or adverse effects caused by subsidisation.

3. Consultations for the purposes of this Part shall follow the procedures set out in Annex II.

Article 99
Prohibited Subsidies

1. Subject to this Treaty, a Member State shall neither grant nor maintain subsidies referred to in paragraph 2.

2. The following subsidies within the meaning of Article 96 shall be prohibited:

(a) subsidies contingent, in law or in fact, whether solely or as one of several other conditions, upon export performance, including those listed in Schedule V; and

(b) subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.

3. Nothing in this Article shall be construed as applying to agricultural commodities produced in the Community.

Article 100
Preliminary Investigation of Prohibited Subsidies

1. An application for an investigation may be made in writing by or on behalf of a domestic industry to the competent authority where the industry has reason to believe that a prohibited subsidy referred to in Article 99 has been granted or maintained by another Member State. The authority shall examine the application and determine, on the basis of the facts available, whether to initiate an investigation.

2. An investigation initiated pursuant to paragraph 1 of this Article shall be deemed to be a preliminary investigation. The authority shall give public notice of the preliminary investigation to inform the concerned Member State, other Member States and the interested parties all of whom shall be afforded adequate time to submit information required and to make comments.

3. The authority shall make a preliminary determination whether a prohibited subsidy has been granted or maintained and, where the determination is affirmative, invite the concerned Member States and interested parties to defend their interests.

4. A request for investigation by the domestic industry under this Article or under Article 106 or 112 shall be accompanied by information set out in the Illustrative List at Annex 111(a).

5. Wherever the term "domestic industry" is used in this Chapter, it shall mean domestic industry as defined in Annex I.

Article 101
Request for Consultations Relating to Prohibited Subsidies

1. Whenever a Member State has reason to believe, pursuant to Article 99 that a prohibited subsidy has been granted or is maintained by a Member State, the aggrieved or any other Member State may request consultations with the Member State believed to be granting or maintaining the subsidy. The aggrieved Member State shall notify COTED of the request for consultations. A request for consultations shall include a statement of the available evidence with regard to the existence and nature of the alleged prohibited subsidy.

2. Upon receipt of a request for consultations under paragraph 1, the Member State believed to be granting or maintaining the subsidy shall reply within 10 days and shall furnish the relevant information requested and shall promptly enter into consultations which shall be concluded within 30 days of the date of request for such consultations unless the parties agree to extend the consultations to a mutually agreed date. The purpose of the consultations shall be to clarify the facts relating to the existence and type of the alleged subsidy and to arrive at a mutually agreed solution.

Article 102
Reference to COTED to Investigate Prohibited Subsidies

1. If no mutually agreed solution is reached at the completion of 30 days from the date of the request for the consultations referred to in Article 101, or at such time as the parties agree, or if the Member State believed to be granting or maintaining the subsidy refuses to co-operate, the Member State requesting consultations or any other Member State interested in such consultations may refer the matter to COTED which shall carry out an investigation to establish whether the subsidy in question is a prohibited subsidy.

2. The referral of the matter to COTED for an investigation shall not prevent the aggrieved Member State from taking, on a provisional basis, which shall not be sooner than 60 days from the date of initiation of investigations under paragraph 1 of Article 103 counter-measures to forestall injury or to prevent further injury to its domestic industry.

Article 103
Investigation by COTED of
Prohibited Subsidies

1. Whenever COTED decides to carry out an investigation pursuant to Article 102, such an investigation by COTED shall proceed as expeditiously as possible. COTED may appoint competent experts to advise whether the subsidy falls to be classified as a prohibited subsidy, in which case COTED shall set a time limit for the examination of the evidence by the competent experts. COTED shall make its determination and issue its report which shall, unless extenuating circumstances arise, not exceed 90 days from the date of receipt of request for the investigation.

2. The results of an investigation carried out pursuant to Article 102 shall be made available to all Member States for information and to afford the concerned Member States an opportunity to arrive at a mutually agreed solution within 30 days from the date of issue of the report failing which COTED shall adopt the recommendations of the report.

3. If COTED is satisfied, based on the results of the investigation, that the subsidy in question is a prohibited subsidy and that the concerned Member States cannot reach a mutually agreed solution, it shall, subject to Article 104, require the offending Member State to withdraw the subsidy within a specified time-frame. Where the offending Member State fails to comply, COTED shall authorise the aggrieved Member State to take counter-measures on the products which benefit from such a subsidy.

Article 104
Withdrawal of Prohibited Subsidies

1. Notwithstanding the investigation confirming the existence of a prohibited subsidy in paragraph 3 of Article 103, COTED shall not impose a requirement for the Member States to withdraw such a subsidy sooner than specified in this paragraph as follows:

(a) with respect to subsidies contingent upon export performance:

(i) the Member States with per capita GNP of less than one thousand United States dollars shall be allowed to maintain such subsidies; and

(ii) other Member States shall be allowed to maintain such subsidies until 1 January 2003;

(b) with respect to subsidies contingent upon the use of domestic over imported inputs, the Member States with per capita GNP of less than one thousand United States dollars shall be allowed to maintain such subsidies until 2003.

2. Whenever the results of an investigation by COTED prove that the alleged subsidy is not a prohibited subsidy, any provisional countervailing measures which might have been imposed shall be promptly withdrawn and any bond or deposit which might have been effected, released or refunded, as the case may be. If the provisional measures referred to in this paragraph have materially retarded the exports of the Member

State which was wrongfully alleged to have introduced or maintained prohibited subsidies, COTED shall, upon application from such a Member State, assess the effects of the provisionally applied measures and determine the nature and extent of compensation which is warranted and recommend compensation in accordance with its assessment.

3. From the date of entry into force of this Treaty until the expiration of the dates mentioned in paragraph 1, no provisional measures shall be imposed where it has been determined by preliminary investigations that prohibited subsidies are maintained.

Article 105
Subsidies Causing Injury, Nullification, Impairment or Serious Prejudice

1. A Member State may take action against subsidised imports from any other Member State where it can be established, based on an investigation, that the effect of the subsidy has been:

(a) injury to its domestic industry;

(b) nullification or impairment of benefits which it expects under this Treaty; or

(c) serious prejudice to its interests.

2. Serious prejudice shall be deemed to exist in the case where:

(a) the total ad valorem subsidisation of a product exceeds 5 per cent;

(b) subsidies cover operating losses sustained by an industry;

(c) subsidies cover operating losses sustained by an enterprise, other than one-time measures which are non-recurrent and cannot be repeated for that enterprise and which are given merely to provide time for the development of long-term solutions and to avoid acute social problems; or

(d) subsidies are granted in the form of forgiveness of government-held debt and government grants to cover debt repayment.

3. Notwithstanding the provisions of this Article, serious prejudice shall not be found if the Member State granting the subsidy in question demonstrates that the effect of the subsidy has not been:

(a) to displace or impede the imports of like products from the Member State exporting to the Member State which has introduced or maintains the subsidy;

(b) to displace or impede the exports of a like product from the affected exporting Member State into the market of a third Member State;

(c) a significant price undercutting by the subsidised product as compared with the price of a like product of another Member State in the same market or a significant price suppression or price depression;

(d) lost sales of another Member State in the same market; or

(e) an increase in its market share within the CSME.

4. The provisions of this Article shall not apply to Part Three.

Article 106
Preliminary Investigation of Subsidies Causing Injury, Nullification, Impairment or Serious Prejudice

1. An application for an investigation may be made in writing by or on behalf of a domestic industry to the national authority where the industry has reason to believe that a subsidy referred to in Article 105 has been granted or is maintained by another Member State and has caused injury, or resulted in nullification, impairment or serious prejudice to its interests.

2. An application under paragraph 1 shall include sufficient information about the existence of a subsidy and, if possible, its amount, injury and a causal link between the subsidised products and the alleged injury.

3. An application to initiate an investigation shall be considered to have been made by or on behalf of a domestic industry if it is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product by that proportion of the domestic industry expressing support for or opposition to the application. The investigation shall not be initiated where the domestic producers expressly supporting the application account for less than 25 per cent of the total production of the like product produced by the domestic industry.

4. Upon receipt of a request for such an investigation, the authority shall examine the application and determine, on the basis of the facts available, whether to initiate an investigation. If the authority decides to initiate an investigation, it shall issue a public notice to that effect, invite the concerned Member State, other interested Member States and interested parties to submit required information and comments.

5. An investigation initiated pursuant to paragraph 1 shall be deemed to be a preliminary investigation. The authority shall inform the concerned Member State and all interested parties of the results of the investigation.

6. For the purpose of this Part, "like product" shall be interpreted to mean a product which is identical, i.e., alike in all respects to the product under consideration, or in the absence of such a product, another product, which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.

Article 107
Request for Consultations Relating to Subsidies Causing Injury, Nullification, Impairment or Serious Prejudice

1. Whenever a Member State has reason to believe that a subsidy within the meaning of Article 96 has been granted or is maintained by another Member State, and that imports from such a Member State have resulted in any of the effects mentioned in paragraph 1(b) of Article 97, the first-mentioned Member State may approach the Member State believed to be granting a subsidy with a request for consultations.

2. A request for consultations shall include a statement of available evidence with regard to -

(a) the existence and nature of the subsidy; and

(b) the injury caused to the domestic industry; or

(c) the impairment or nullification of benefits of exporting to other Member States in the Community; or

(d) serious prejudice to its interests.

3. Upon receipt of a request for consultations under paragraph 1, the Member State believed to be granting or maintaining the subsidy shall reply within 10 days, and shall furnish relevant information and enter into consultations within 30 days of the date of the request. The purpose of the consultations shall be to clarify the facts relating to the existence, type and effect of the alleged subsidy and to arrive at a mutually agreed solution.

Article 108
Reference to COTED to Investigate Subsidies Causing Injury, Nullification, Impairment or Serious Prejudice

1. If no mutually agreed solution is reached at the completion of 60 days from the date of request for consultations, or on a date mutually agreed, the Member State requesting consultations may refer the matter to COTED which shall initiate an investigation, make a determination to resolve the dispute and issue a report within 120 days of the date of the request for an investigation by the aggrieved Member State.

2. A decision by COTED to initiate an investigation shall not prevent the aggrieved Member State from taking, on a provisional basis, countermeasures which shall not be sooner than 60 days from the date of initiation of a preliminary investigation by the national authority to forestall or prevent further adverse effects.

Article 109
Investigation by COTED of Subsidies Causing Injury, Nullification, Impairment or Serious Prejudice

1. In order to arrive at a determination of the existence, degree and effect of subsidisation, and remedial action which may be taken pursuant to the referral of a complaint of alleged subsidisation mentioned in Article 108, COTED shall -

(a) carry out an investigation into the circumstances relating to the alleged grant or maintenance of the subsidy by the offending Member State; the investigation is to be completed within 120 days of the date of receipt of a complaint regarding alleged subsidisation by an offending Member State; and

(b) upon receipt of the report arising from the investigation, promptly make available the report to the concerned Member States to facilitate consultation and to permit the Member states concerned to arrive at a mutually acceptable solution.

Article 110
Consequences of Failure to Remove Subsidies Causing Injury, Nullification, Impairment or Serious Prejudice

1. If no mutually acceptable solution is reached within 30 days of the date of issue of the report by COTED, and COTED is satisfied:

(a) of the existence of a subsidy within the meaning of Article 105; and

(b) that the subsidy has caused injury to the enterprise in the aggrieved Member State; or

(c) that the subsidy has impaired or nullified benefits expected of the aggrieved Member State with respect to its exports to the Community; or

(d) that the effect of the subsidy was to seriously prejudice the interests of the Member State,

then in such a case, COTED shall request the Member State which has granted or maintained the subsidy to take appropriate steps to remedy the effects of the subsidy within six months of the date of the issue of the report by COTED.

2. If, at the end of the period of six months allowed by COTED to the Member State granting or maintaining the subsidy to remedy the effects of the subsidy, the Member State fails to comply and in the absence of agreement on compensation COTED shall authorise the aggrieved Member State to impose countervailing duties at a rate equivalent to the amount of subsidisation for such time and under such conditions as COTED may prescribe.

Article 111
Types of Subsidies Causing Serious Adverse Effects

1. The Member States shall not ordinarily impose or introduce countervailing duties or take countermeasures on products which benefit from:

(a) subsidies which are not specific within the meaning of Article 97; or

(b) subsidies which are specific within the meaning of Article 97 but which satisfy all of the conditions set out in this sub-paragraph hereunder:

(i) subsidies granted for research activities conducted by enterprises or by higher education or research establishments on a contract basis with firms if the assistance covers not more than 75 per cent of the costs of industrial research or 50 per cent of the costs of pre-competitive development activity and provided that such assistance is limited exclusively to:

(aa) costs of personnel (researchers, technicians and other supporting staff employed exclusively in the research activity);

(bb) costs of instruments, equipment, land and buildings used exclusively and permanently (except when disposed of on a commercial basis) for the research activity;

(cc) costs of consultancy and equivalent services used exclusively for the research activity, including bought-in research, technical knowledge, patents, etc.;

(dd) additional overhead costs incurred directly as a result of the research activity;

(ee) other running costs (such as those of materials, supplies and the like), incurred directly as a result of the research activity.

(c) subsidies granted to assist disadvantaged regions within the territory of a Member State given pursuant to a general framework of regional development and that are non-specific within eligible regions provided that:

(i) each disadvantaged region must be a clearly designated contiguous geographical area with a definable economic and administrative identify;

(ii) the Region is considered as disadvantaged on the basis of neutral and objective criteria, indicating that the region's difficulties arise out of more than temporary circumstances; such criteria must be clearly spelled out in law, regulation, or other official document, so as to be capable of verification;

(iii) the criteria shall include a measurement of economic development which shall be based on at least one of the following factors:

(aa) one of either income per capita or household income per capita, or GDP per capita, which must not be above 85 per cent of the average for the territory concerned;

(bb) unemployment rate, which must be at least 110 per cent of the average for the territory concerned;

(d) subsidies granted to assist entities in the adaptation of existing facilities to new environmental requirements imposed by law and/or regulations which result in greater constraints and financial burden on enterprises provided that the subsidies -

(i) are a one-time non-recurring measure; and

(ii) are limited to 20 per cent of the cost of adaptation; and

(iii) do not cover the cost of replacing and operating the assisted investment, which must be fully borne by firms; and

(iv) are directly linked to and proportionate to a firm's planned reduction of nuisances and pollution, and do not cover any manufacturing cost savings which may be achieved; and

(v) are available to all firms which can adopt the new equipment and/or production processes.

(e) subsidies granted to assist enterprises to undertake training or retraining of employees, whether or not the enterprise is new, and the upgrading of existing facilities to facilitate transition to competitive status within the Community, provided that such subsidies are not specific.

2. The Member States shall notify COTED of any subsidy mentioned in paragraph 1. Any Member State may request further information regarding a notified subsidy programme and COTED shall review annually all notified subsidies referred to in paragraph 1.

Article 112
Preliminary Investigation of Subsidies
Causing Serious Adverse Effects

1. A domestic industry may submit to the competent authority an application for an investigation to verify that serious adverse effects have been caused by imports which benefit from subsidies referred to in Article 111.

2. Upon receipt of an application for an investigation to verify adverse effects, the authority shall examine the application, and, on the basis of the available facts, determine whether to initiate an investigation.

3. The investigation referred to in paragraph 2 shall be deemed a preliminary investigation. The authority shall give public notice of its decision to initiate a preliminary investigation and the concerned Member State, other interested Member States, and the interested persons shall all be invited to provide relevant information and make comments.

4. The results of the preliminary investigation shall be made available to the concerned Member State, other interested Member States and the interested persons to enable them to defend their interests.

Article 113
Request for Consultations Relating to Subsidies
Causing Serious Adverse Effects

1. Whenever a Member State has reason to believe that imports from another Member State benefited from subsidies within the meaning of Article 111 and such imports have resulted in serious adverse effects to a domestic industry so as to cause damage which would be difficult to repair, the Member State aggrieved may request consultations with the Member State granting or maintaining the subsidy.

2. The Member State alleged to be granting the subsidy which caused adverse effects shall reply within 10 days of the date of the request for consultations and shall enter into the consultations requested by the aggrieved Member State. If there is no mutual agreement within 60 days of the date of the request for such consultations or on a later date which was mutually agreed or if the Member State refuses to co-operate, the aggrieved Member State may refer the matter to COTED and request COTED to carry out an investigation.

Article 114
Investigation by COTED of Subsidies
Causing Serious Adverse Effects

1. The referral of the matter to COTED for an investigation shall not prevent the aggrieved Member State from imposing on a provisional basis not sooner than 60 days

from the date of initiation of the preliminary investigation referred to in Article 106, countermeasures to forestall or prevent further adverse effects.

2. If COTED is satisfied that the investigation requested is justified, COTED shall carry out the investigation, make a determination and issue a report within 120 days from the date when the request was referred.

3. Where the results of the investigation carried out by COTED demonstrate that the subsidised imports caused serious adverse effects to the domestic industry of the aggrieved Member State requesting the investigation, COTED shall recommend that the offending Member State modify the programme of subsidies in such a way as to remove the adverse effects complained of.

Article 115
Consequences of Failure to Eliminate or Establish Adverse Effects of Subsidies

1. If the offending Member State fails to implement the recommendations of COTED within 6 months of the date of issue of the report referred to in paragraph 2 of Article 114, COTED shall authorise the aggrieved Member State to impose appropriate countervailing duties commensurate with the nature and degree of serious adverse effects determined to exist.

2. Whenever the results of an investigation by COTED prove that serious adverse effects have not been caused by subsidised imports referred to in paragraph 1 of Article 111, the Member State alleging that its domestic industry has suffered serious adverse effects shall promptly refund any duties which might have been provisionally imposed and where such provisional duties had materially retarded the exports of the Member State complained against, COTED shall, upon application from such State, assess the effects of the provisionally applied duties and determine the nature and extent of compensation which is warranted and require compensation in accordance with its assessment.

Article 116
Imposition of Provisional Measures and Countervailing Duties

1. Notwithstanding anything to the contrary in this Chapter, a Member State aggrieved by the application or maintenance of prohibited subsidies or by subsidies which cause injury, or result in nullification, impairment, or serious prejudice, or cause serious adverse effects, as the case may be, shall introduce provisional measures only on the basis of the following rules:

(a) Provisional measures may be applied only if -

(i) a preliminary investigation has been initiated in accordance with the provisions of this Chapter, a public notice has been given to that effect and interested persons have been given adequate opportunities to submit information and make comments;

(ii) an affirmative preliminary determination has been made of the existence of a prohibited subsidy, or a subsidy causing injury,

nullification, impairment, serious prejudice, or a subsidy causing serious adverse effects, as the case may be;

(iii) consultations were requested and undertaken, COTED was notified and requested to investigate and the authorities concerned judge such measures necessary to prevent injury being caused during the investigation;

(b) Provisional measures may take the form of provisional countervailing duties guaranteed by cash deposits or bonds equal to the amount of the subsidisation calculated on a provisional basis;

(c) Provisional measures shall not be applied sooner than 60 days from the date of initiation of the preliminary investigation;

(d) The application of provisional measures shall be limited to as short a period as possible, not exceeding 120 days.

2. Where investigations by COTED continue beyond the period allowed for the maintenance of provisional measures under sub-paragraph 1(d), the Member State imposing the measures may continue with such measures until a definitive determination is made by COTED.

3. The Member States which are parties to an investigation to verify the existence and the effect of alleged subsidisation, may seek or accept, as the case may be, undertakings from the Member State alleged to have granted or to be maintaining a subsidy. Undertakings may take the form of:

(a) withdrawal, or limiting the amount of, the subsidy to such an extent that injury, nullification, impairment, serious prejudice or serious adverse effects, as the case may be, are eliminated; or

(b) a guarantee from the exporter benefiting from the subsidy to raise his price to such an extent that the injurious effect is eliminated.

4. If a Member State accepts a voluntary guarantee pursuant to sub-paragraph 3(b), then the accepting Member State shall notify COTED and promptly suspend proceedings, and any provisional measures which may have been imposed shall be withdrawn with immediate effect.

5. In the event that investigations to determine subsidisation have been concluded and the evidence proves injury, nullification, impairment or serious prejudice, or serious adverse effects, as the case may be, a Member State may impose countervailing duties retroactively to account for the entire period during which provisional measures have been in force. Such retroactively applied duties shall take into account the definitively assessed countervailing duties and the amount guaranteed by cash deposit or bond and:

(a) where the definitive countervailing duties are higher than the provisional duties, the difference shall not be collected;

(b) where the definitive countervailing duties are lower than the provisional duties, the excess of the deposit shall be refunded or the bond released promptly.

6. No Member State shall impose countervailing duties other than provisional countervailing duties without prior authorisation from COTED and the determination and imposition of definitive countervailing duties shall be governed by the relevant provisions of the WTO Agreement on Subsidies and Countervailing Measures.

7. COTED shall keep under review all counter-measures imposed by the Member States and shall ensure that the Member States observe the conditions and timetable for review and withdrawal of counter-measures that it may have authorised.

8. The Member States undertake to co-operate in establishing harmonised legislation and procedures in accordance with the provisions of this Chapter.

PART FOUR - SUBSIDIES TO AGRICULTURE

Article 117
Definition

1. For the purpose of this Part, an agricultural subsidy means any form of domestic support, financial or otherwise, including revenue foregone, provided by government or any public agency in favour of the producers of a specific agricultural product or to the agricultural sector as a whole. This includes:

(a) assistance provided by government or any public agency to foster agricultural and rural development or to assist low income producers or producers with deficient resources;

(b) financial concessions granted by government or a public agency to offset the cost of agricultural inputs or to encourage investments in agriculture;

(c) any other financial concession which has the effect of providing price or income support to producers of agricultural products which is administered either through direct payments to the producers or processors of an agricultural product or indirectly through government or other publicly funded programmes;

(d) payments in kind to agricultural producers.

2. "Agricultural products" refers to the products listed in Annex IV.

Article 118
Rights

Having regard to the general use of subsidies in Member States to encourage agricultural and rural development, to promote investments in agriculture generally and to assist low-income or resource-poor producers, Member States may grant subsidies to meet those objectives, consistently with their obligations under international agreements and subject to the provisions of this Part.

Article 119
Obligations

1. Notwithstanding the right to grant subsidies indicated in Article 118, a Member State shall not use such subsidies in a manner to distort the production of and intra-regional trade in the product or products benefiting from such subsidies.

2. Accordingly, subsidies provided by a Member State to agriculture shall not involve transfers from consumers, or direct payments to producers or processors which would have the effect of providing price support to producers.

3. Subsidies provided by a Member State to agriculture shall be made through publicly funded programmes which benefit the agricultural sector generally, in areas such as research, training, extension and advisory services, pest and disease control, inspection services, marketing and promotion services and infrastructural services.

4. Where a Member State makes direct payments of a subsidy to agricultural producers or processors through such schemes as crop insurance, disaster relief, income safety-net programmes, regional assistance programmes and structural adjustment assistance programmes, the Member State shall ensure that these payments, whether financial or otherwise, have no or minimal production and trade distortion effect and do not constitute price support to producers of the product or products benefitting from the use of such schemes.

Article 120
Regulation

1. Any subsidy provided by a Member State in favour of the production of an agricultural product entering regional trade, except for the provision of general services programmes or direct payments satisfying the conditions stated in Article 119, shall not exceed 10 per cent of the total value of that Member State's annual production of such tradeable agricultural product in any one year.

2. Any subsidy provided by a Member State in favour of agricultural producers or processors in general, except for the provision of general services programmes or direct payments satisfying the conditions stated in Article 119, shall not exceed 10 per cent of the total value of that Member State's annual total agricultural output, in any one year.

3. Where a Member State provides a subsidy, except for the provision of general services programmes or direct payments satisfying the conditions stated in Article 119, in excess of the levels prescribed in paragraphs 1 and 2, such a subsidy shall be considered as a subsidy causing injury, nullification, impairment or serious prejudice.

Article 121
Discipline

1. Each Member State shall ensure that any subsidy in favour of agricultural producers conforms with the provisions of Article 119 and Article 120.

2. Any subsidy in favour of agricultural producers that cannot be shown to satisfy the provisions in Article 119 and Article 120, shall be subject to the provisions of Article 106 to Article 110 inclusive.

3. A subsidies programme undertaken in conformity with the provisions of this Part shall be subject to action based on Article 106 to 110 inclusive where a determination of injury or threat thereof is made in accordance with the provisions of this Part.

4. In the determination of a threat of injury, the investigating authorities shall consider, inter alia, such factors as:

(i) the nature of the subsidy or subsidies in question and the trade effects likely to arise therefrom;

(ii) a significant rate of increase of subsidised imports into the domestic market indicating the likelihood of substantially increased importations;

(iii) sufficient freely disposable or an imminent, substantial increase in capacity of the exporter indicating the likelihood of substantially increased subsidised exports to the importing country's market, taking into account the availability of other export markets to absorb any additional exports;

(iv) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and are likely to increase demand for further imports;

(v) inventories of the product being investigated.

Article 122
Due Restraint

Where it has been determined that a subsidy causes injury or threatens to cause such injury, in accordance with the provisions of this Part, the aggrieved Member State shall exercise due restraint in initiating any action in retaliation.

Article 123
Notification

1. The Member States shall notify COTED of any subsidy programme pursuant to Article 117 prior to implementation.

2. In addition to the notification to be submitted under this Article, any new subsidy or modification of an existing measure shall be notified promptly. This notification shall contain details of the new or modified subsidy and its conformity with the agreed criteria as set out in Article 116 and Article 120.

3. Any Member State may bring to the attention of COTED any measure which it considers ought to have been notified by another Member State.

Article 124
Review

COTED shall undertake a review of the implementation of the provisions on subsidies to agriculture on the basis of notifications of the subsidies programmes submitted by the Member States, as well as on the basis of any other documentation which the COTED may request to be prepared to facilitate its review.

PART FIVE - DUMPING

Article 125
Action Against Dumping

A Member State may take action against dumped imports if such imports cause injury or pose a serious threat of injury to a domestic industry.

Article 126
Determination of Dumping

1. For the purpose of this Part, a product is to be considered to be a dumped import where it is introduced into the commerce of another country at less than its normal value if the export price of the product exported from one Member state to another Member State is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting Member State.

2. When there are no sales of the like product in the ordinary course of trade in the domestic market of the exporting country or when, because of the particular market situation or the low volume of the sales in the domestic market of the exporting country, such sales do not permit a proper comparison, the margin of dumping shall be determined by comparison with a comparable price of the like product when exported to an appropriate third country, provided that this price is representative, or with the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and for profits.

3. In cases where there is no export price or where it appears to the authorities concerned that the export price is unreliable because of association or a compensatory arrangement between the exporter and importer or a third party, the export price may be constructed on the basis of the price at which the imported products are first resold to an independent buyer, or if the products are not resold to an independent buyer, or not resold in the condition as imported, on such reasonable basis as the authorities may determine.

4. A fair comparison shall be made between the export price and the normal value. This comparison shall be made at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are also demonstrated to affect price comparability. In the cases referred to in paragraph 3, allowances for costs, including duties and taxes incurred between importation and resale, and for profits accruing, should also be made. If in these cases price comparability has been affected, the authorities shall establish the normal value at a level of trade equivalent to the level of trade of the constructed export price, or shall make due allowance as warranted under this paragraph. The authorities shall indicate to the parties in question what information is necessary to ensure a fair comparison and shall not impose an unreasonable burden of proof on those parties.

5. In the case where products are not imported directly from the country of origin but are exported to the importing Member from an intermediate country, the price at

which the products are sold from the country of export to the importing Member shall normally be compared with the comparable price in the country of export. However, comparison may be made with the price in the country of origin, if, for example, the products are merely transshipped through the country of export, or such products are not produced in the country of export, or there is no comparable price for them in the country of export.

6. For the purpose of this Part , "like product" shall be interpreted to mean a product which is identical, i.e., alike in all respects to the product under consideration, or in the absence of such a product, another product, which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.

Article 127
Determination of Injury

1. For the purpose of this Part, injury shall, unless otherwise specified, be taken to mean material injury to a domestic industry, threat of material injury to a domestic industry or material retardation of the establishment of such an industry.

2. A determination of injury within the meaning of paragraph l shall be based on positive evidence and involve an objective examination of:

(a) the volume of the dumped imports and the effect of such imports on prices in the domestic market for like products; and

(b) the consequent impact of the dumped imports on domestic producers of such products.

3. In making a determination regarding the existence of a threat of material injury, the competent authorities shall consider, *inter alia*:

(a) a significant rate of increase of dumped imports into the domestic market indicating the likelihood of substantially increased importation;

(b) sufficient freely disposable, or an imminent, substantial increase in, capacity of the exporter indicating the likelihood of substantially increased dumped exports to the importing Member's market taking into account the availability of other export markets to absorb any additional exports;

(c) whether imports are entering at prices that will have a significant depressing or suppressing effect on domestic prices, and would likely increase demand for further imports; and

(d) inventories of the product being investigated.

Article 128
Definition of Domestic Industry

For the purpose of this Part, the term "domestic industry" means "domestic industry" as defined in Annex I.

Article 129
Initiation of Preliminary Investigations

1. If a domestic industry in a Member State has reason to believe that it is being injured or faces the threat of injury as a result of dumped imports, an application may be submitted in writing by the industry or on its behalf by an association representing the industry or by employees employed by the producers of the like product to the competent authority to initiate an investigation in order to verify the existence of dumped imports and injury caused or the existence of a serious threat of injury as the case may be.

2. The application shall be considered to have been made by or on behalf of the domestic industry if it is supported by those domestic producers whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the request. However, no investigation shall be initiated when domestic producers expressly supporting the request account for less than 25 per cent of total production of the like product produced by the domestic industry.

3. The authority shall examine the application and determine if an investigation is justified and if it is satisfied, it shall issue a public notice to that effect and request the concerned Member State, other interested Member States and the interested parties, all of which may be requested to and shall be afforded an opportunity to provide required information and comments.

4. A decision by the authority to initiate an investigation shall be considered a decision to initiate a preliminary investigation, the results of which shall be made available by a public notice.

5. Where a preliminary investigation provides sufficient evidence that dumped imports have entered into the commerce of the Member State and such imports seriously threaten or have injured a domestic industry, it may submit to the competent authority of the exporting Member State a request for consultations which shall be notified to COTED.

6. The purpose of the request for consultations shall be to establish whether imports have been dumped and injury has been caused or there is a serious threat of injury and if the injury or the serious threat thereof is directly the result of dumped imports.

7. Interested parties who have been requested to provide information shall be allowed 30 days from the date of submission of the application by or on behalf of a domestic industry under paragraph 2 to reply unless the authorities concerned agree to a later date.

8. For the purpose of this Part, "interested parties" shall include:

   (a) an exporter or foreign producer or the importer of a product subject to investigation, or a trade or business association, a majority of the members of which are producers, exporters or importers of such product;

   (b) the government of the exporting Member State; and

   (c) a producer of the like product in the importing Member State or a trade and business association, a majority of the members of which produce the like product in the territory of the importing Member State.

9. A request for investigations to be undertaken by the competent authority of a Member State or by COTED shall include but shall not necessarily be limited to the information indicated in the Illustrative List set out in Annex III(b). If, however, an aggrieved Member State is satisfied that the offending party had not made satisfactory efforts to afford consultations, to provide requested information or otherwise unreasonably impede an investigation which has been initiated , the competent authority of the Member State aggrieved may impose on a provisional basis anti-dumping measures and may refer the request for investigation to COTED. A public notice of the imposition of provisional anti-dumping measures shall be issued by the Member State which has imposed such measures.

Article 130
Provisional Measures

1. Provisional measures may be applied only if -

   (a) an investigation has been initiated in accordance with the provisions of paragraph 4 of Article 129, a public notice has been given to that effect and interested parties have been given adequate opportunities to submit information and make comments;

   (b) a preliminary affirmative determination has been made of dumping and consequent injury to a domestic industry; and

   (c) the authorities concerned judge such measures necessary to prevent injury being caused during the investigation.

2. Provisional measures may take the form of a provisional duty or preferably, a security - by cash deposit or bond - equal to the amount of the anti-dumping duty provisionally estimated, being not greater than the provisionally estimated margin of dumping. Withholding of appraisement is an appropriate provisional measure, provided that the normal duty and the estimated amount of the anti-dumping duty be indicated and as long as the withholding of appraisement is subject to the same conditions as other provisional measures.

3. Provisional measures shall not be applied sooner than 60 days from the date of initiation of the investigation by a competent authority.

4. The application of provisional measures shall be limited to as short a period as possible, not exceeding 120 days or, on decision of the authorities concerned, upon request by exporters representing a significant percentage of the trade involved, to a period not exceeding 180 days. When authorities, in the course of an investigation, examine whether a duty lower than the margin of dumping would be sufficient to remove injury, these periods may be 180 and 270 days, respectively.

Article 131
Conduct of Investigations Leading to
Definitive Determination of Injury

1. Whenever COTED receives a request for investigation, referred to it under paragraph 9 of Article 126, COTED shall determine whether the information accompanying the request justifies the continuation of investigations and if it is satisfied,

cause an investigation to be completed within 12 months but not longer than 18 months after the date of receipt of the request. If COTED is not satisfied that there is sufficient justification to initiate an investigation, it shall inform the applicant in writing of its refusal to investigate.

2. Investigations initiated either by a competent authority of a Member State or undertaken by COTED shall be terminated promptly whenever:

(a) the margin of dumping is determined to be less than two per cent; and

(b) the volume of dumped imports from a particular country is less than three per cent of imports of the like product in the importing Member State, unless countries which individually account for less than three per cent of the imports of the like product into the importing Member State collectively account for more than seven per cent of the imports of the like product in the importing Member State, and a public notice of the termination of investigations under this paragraph shall be made by the Member State terminating investigations or by COTED, as the case may be.

3. The Member States recognise that an investigation into the circumstances of alleged dumping based on a request by another Member State on behalf of a domestic industry will require the full co-operation of the competent authority and the parties alleged to be responsible for dumped imports, in the Member State from which such imports originated, all of whom shall provide relevant information in the time specified in this Article.

4. In the conduct of an investigation to determine the existence and effect of dumped imports, competent authorities of the Member States and the parties concerned shall observe the rights of the parties providing information with regard to confidentiality of any information provided and shall not disclose any such information without the prior written approval of the parties providing the information.

5. Where an industry within the CSME has suffered injury or faces the threat of serious injury based on evidence of dumped imports by third States, the competent authority for requesting investigation on behalf of the affected industry shall be COTED.

6. Nothing in this Article shall be construed so as to prevent an injured party or a Member State from initiating and proceeding with an investigation into alleged dumping having regard to the rights of such parties under international agreements to which they are signatories.

Article 132
Co-operation by Competent Authorities and Interested Parties

1. Where an applicant for an investigation who receives information pursuant to dumping investigations requires verification of the information, the competent authority and the parties alleged to be responsible for dumped imports shall co-operate in allowing the applicant to carry out verifications in the offending Member State.

2. The results of any investigations carried out by a competent authority of a Member State aggrieved or by COTED shall be disclosed promptly to the competent authority and the parties alleged to be responsible for dumped imports in the offending

Member State. A public notice of the conclusions of the investigations shall be issued by the Member State or by COTED, as the case may be.

3. The purpose of the disclosure referred to in paragraph 2 shall be to present the facts of the case and to allow the parties alleged to be responsible for the dumped imports to defend their interests.

Article 133
Imposition of Anti-Dumping Measures

1. COTED shall, after consideration of the available evidence and having been satisfied of the existence of dumped imports, injury caused by dumped imports or the threat of serious injury from dumped imports, authorise the Member State aggrieved to take anti-dumping action:

(a) if the parties alleged to be responsible for dumped imports refuse to co-operate within the time specified so as to frustrate or otherwise impede an investigation;

(b) if there is a serious threat of injury or if injury has resulted.

2. In authorising the imposition of anti-dumping measures, COTED shall set the date, duration and conditions for the imposition of the measures as the case may require.

3. Anti-dumping action taken pursuant to this Article, shall be based on the calculated margin of dumping and may be applied as follows:

(a) if the evidence arising from definitive investigations of dumping proves the existence of dumping and that injury was caused by dumping, a Member State may impose anti-dumping duties sufficient to eliminate the margin of dumping. COTED may authorise all affected Member States to impose similar anti-dumping duties for such time and under such conditions as COTED may prescribe;

(b) in the imposition of anti-dumping duties, the Member States imposing the measure shall not discriminate among the sources of all dumped imports based on country of origin or nationality of the exporters;

(c) an exporter whose exports are the subject of anti-dumping duties may request at any time the Member State imposing the duties to review the application of the duties against the relevant exports;

(d) if an applicant for review of anti-dumping duties applied to exports mentioned in sub-paragraph (c) is not satisfied that the competent authorities in the importing Member States have given adequate consideration to the request for review within 30 days of the receipt of the request, the applicant may refer the request to COTED which shall recommend to the Member State maintaining the anti-dumping duty to take the appropriate action if it is satisfied that the application for review is justified;

(e) in the event that investigations have been concluded and the evidence proves that injury has been caused, a Member State may impose anti-dumping duties retroactively to account for the entire period during which

provisional anti-dumping duties have been in force preceding the date of imposition of definitive anti-dumping duties. If, however, the definitive anti-dumping duties are higher than the provisional duties paid or payable or the amount estimated for the purpose of security, the difference shall not be collected. If the definitive duties are lower than the provisional duties payable, or the amount estimated for the purpose of security, the difference shall be reimbursed or the duties recalculated as the case may require;

(f) if however the investigations reveal that injury was not caused by dumped imports as alleged, but the provisional measures have materially retarded exports of the Member State complained against, COTED shall, upon application by such State, assess the effects of the provisionally applied duties and determine the nature and extent of compensation which is warranted and require the Member State applying provisional measures to withdraw the measure and pay compensation in accordance with its assessment;

(g) a Member State may accept a voluntary price guarantee from an exporter who is believed to be exporting dumped products, to raise the price of the export sufficiently to forestall a serious threat of injury or to eliminate injury caused by dumped imports;

(h) if a Member State has initiated investigations based on evidence of dumped imports and the Member State had imposed provisional measures, the Member State may, upon the receipt of a voluntary guarantee from the exporter referred to in sub-paragraph (g), promptly suspend the investigation and withdraw any provisional measures it may have imposed as appropriate.

4. COTED shall keep under review all anti-dumping measures imposed by the Member States and shall ensure that the Member States observe the conditions and the timetable for review and withdrawal of anti-dumping measures that it may have authorised.

5. The Member States undertake to co-operate in the establishment of harmonised anti-dumping legislation and procedures in accordance with the provisions of this Protocol.

CHAPTER SIX - TRANSPORT POLICY

Article 134
Objectives of the Community Transport Policy

1. The goal of the Community Transport Policy shall be the provision of adequate, safe and internationally competitive transport services for the development and consolidation of the CSME.

2. In fulfilment of the goal set out in paragraph 1 of this Article, the Community shall pursue the following objectives:

(a) the organisation of efficient, reliable, affordable transport services throughout the Community;

(b) the development and expansion of air and maritime transport capabilities in the Community;

(c) the promotion of co-operative arrangements for the provision of transport services;

(d) the development of efficient internationally competitive ancillary transport services;

(e) the development of human resources for employment in all areas and at all levels of the transport sector;

(f) the implementation of standards for the development of safe road, riverine, sea and air transport services.

Article 135
Implementation of Community Transport Policy

1. In order to achieve the objectives of the Community Transport Policy, COTED shall, in collaboration with other Organs of the Community as appropriate, promote, *inter alia*:

(a) co-ordination of the national transport policies of the Member States;

(b) the implementation of uniform regulations and procedures, consistent with standards and recommended practices, for the development of an efficient multi-modal transport system, particularly in respect of operations, safety, licensing and certification;

(c) the development of required institutional, legal, technical, financial and administrative support for the balanced, sustainable development of the transport sector;

(d) the establishment of measures:

(i) to ensure that the development of the transport sector does not impact adversely on the environment of the Member States and, in particular, the Caribbean Sea;

(ii) for the acquisition and transfer of technology in the transport sector; and

(iii) for human resources development in accordance with Article 63;

(e) investment in the transport sector, including ancillary services supportive of the sector through, for example, joint ventures;

(f) the removal of obstacles to the provision of transport services by nationals of the Member States in accordance with the relevant provisions of Chapter Three.

2. COTED shall develop programmes to facilitate the achievement of the objectives set out in Article 134.

3. The Member States shall co-ordinate their actions in order to secure the best terms and conditions for the provision of transport services by service providers.

Article 136
Search and Rescue

1. COTED shall promote co-operation in air and maritime search and rescue operations in the Community, bearing in mind such machinery as may exist for the overall co-ordination of search and rescue services.

2. The Member States shall notify COTED of air and maritime equipment and facilities available for use in search and rescue operations.

3. The Member States shall collaborate with third States and competent international organisations in search and rescue operations.

Article 137
Intra-Community Transport Services

1. The Member States shall adopt uniform standards and recommended practices for the provision of transport services.

2. The Member States shall notify COTED of legislative, regulatory or administrative measures affecting the provision of transport services within their domestic jurisdictions where such measures deviate from uniform standards and recommended practices.

3. The Member States adversely affected by such regulatory or administrative measures may notify COTED of such adverse effects, and shall have recourse to the disputes settlement procedures provided in the Treaty.

Article 138
Development of Air Transport Services

1. The Member States shall co-operate in:

   (a) the development of air transport services in the Community and towards this end may conclude among themselves air transport agreements designed to facilitate the provision of such services;

   (b) establishing measures to ensure that the provision of international air transport services in the Community is undertaken by financially viable and technically qualified carriers and operators, and that the Community interest in safety, security and economy of air travel is not prejudiced.

2. COTED shall promote co-operation among the Member States in the registration of aircraft and the enforcement of applicable standards in the air transport industry.

3. The Member States shall co-operate in ensuring uniformity in licensing and certification procedures and equivalencies within the Community for aviation personnel in conformity with international standards.

4. COTED shall promote co-operation among operators of air transport services of the Member States particularly in purchasing of equipment and supplies, the

management of inventories, interline and inter-modal operations, code sharing, reservations, insurance, leasing and similar operations.

Article 139
Aircraft Accident and Incident Investigation

1. The Member States undertake to conduct effective and comprehensive investigations into aircraft accidents and incidents with a view to enhancing the technical conditions for the safe delivery of air transport services.

2. The Member States shall, to the extent practicable, make available appropriate equipment, facilities and personnel to assist in the investigation of aircraft accidents or incidents which occur within the Community and take effective measures to protect the property of victims, relevant evidence and the crash site from interference and unauthorised entry.

3. The Member States shall collaborate with third States and competent international organisations in the conduct of aircraft accident investigations.

Article 140
Development of Maritime Transport Services

1. The Member States shall co-operate in the development of maritime transport services in the Community. In particular, the Member States shall co-operate in:

(a) enhancing flag and port State control activities in the Region;

(b) developing and providing expertise in the shipping industry, including the necessary services and infrastructure necessary for the growth of the shipping sector;

(c) protecting the marine environment from the effects of vessel source pollution and in combating the effects of such pollution; and

(d) taking any other action necessary for the sustainable development of the shipping sector.

2. The Community shall co-operate with competent national, regional and international organisations in establishing conditions for the provision of efficient and affordable maritime transport services among the Member States.

3. COTED shall promote co-operation among the Member States in the implementation of relevant international maritime instruments relating to maritime safety, marine environmental protection, maritime accident investigation and the facilitation of maritime traffic.

4. COTED shall promote and co-ordinate the development of maritime transport services in the Community through, inter alia:

(a) the development of proposals for the establishment and upgrade of small vessel enterprises in the Community;

(b) the establishment of a regime of incentives to encourage the development of shipping enterprises in the Community;

(c) measures for the establishment, improvement and rationalisation of port facilities in the Community, to respond to the demands of containerisation, refrigeration and storage of agricultural commodities, nautical and cruise tourism and other special and dedicated services;

(d) co-operation and regular interchange among administrations to promote a harmonised system for the development of maritime transport in the Community;

(e) promotion of joint ventures among Community nationals and with extra-regional shipping enterprises to facilitate the transfer of appropriate technology and increase the participation of the Member States in international shipping;

(f) the organisation and harmonisation of training programmes within the Community, the strengthening of the capabilities of training institutions and the ease of access of Community nationals to all aspects of training and development in the shipping industry; and

(g) measures for the development of ancillary services in the shipping industry, including non-vessel operating common carriers, marine insurance, freight forwarding, transshipment and other services.

5. The Member States shall promote the development of maritime transport services in the Community through, inter alia:

(a) the establishment and improvement of port facilities;

(b) the establishment of effective maritime administrations for the regulation of shipping in the respective jurisdictions of maritime safety and marine environmental protection;

(c) the implementation of relevant international maritime instruments related to the safety of shipping and the prevention of vessel source pollution; and

(d) encouraging improved efficiency in ports and in related services to reduce maritime transportation costs.

Article 141
Special Status of the Caribbean Sea

The Member States shall co-operate in achieving international recognition for the Caribbean Sea as a Special Area requiring protection from the potentially harmful effects of the transit of nuclear and other hazardous wastes, dumping, pollution by oil or by any other substance carried by sea or wastes generated through the conduct of ship operations.

CHAPTER SEVEN - DISADVANTAGED COUNTRIES, REGIONS AND SECTORS

PART ONE - PRELIMINARY

Article 142
Scope of Application

1. The provisions of this Chapter shall have effect for the purpose of establishing a regime for disadvantaged countries, regions or sectors within the framework of the Treaty as well as a special regime for the Less Developed Countries in order to enhance their prospects for successful competition within the Community, and redress, to the extent possible, any negative impact of the establishment of the CSME.

2. As soon as practicable after the entry into force of this Treaty, the Conference shall, on the recommendation of the Community Council and in accordance with Article 1, designate disadvantaged countries, regions and sectors and may, from time to time, make such further designations or terminate such designations as circumstances warrant.

3. Wherever in this Treaty reference is made to disadvantaged countries, regions and sectors or to the Less Developed Countries, the Organs of the Community shall take the measures required to give effect to the spirit and intent of this Chapter.

Article 143
Objective of the Regimes

1. The objective of the regimes mentioned in Article 142 is to assist the disadvantaged countries, regions and sectors towards becoming economically viable and competitive by appropriate interventions of a transitional or temporary nature.

2. The interventions referred to in paragraph 1 of this Article may include:

   (a) technical and financial assistance to address economic dislocation arising from the operation of the CSME;

   (b) special measures to attract investment and industries;

   (c) transitional or temporary arrangements to ameliorate or arrest adverse economic and social impact arising from the operation of the CSME;

   (d) special measures to assist industries to become efficient and competitive;

   (e) assistance intended to achieve structural diversification and infrastructural development;

   (f) assistance to economic enterprises disadvantaged by the removal of intraregional barriers;

   (g) the establishment of mechanisms to monitor, and assist in the discharge of, obligations assumed under the Treaty and other international trade agreements.

Article 144
Implementation of Measures

Subject to the authority of the Conference, COTED and COFAP, as appropriate, shall establish, administer and monitor the measures identified in Article 143.

Article 145
Review of Measures

1. The Community Council shall review, as appropriate, the effectiveness of measures taken pursuant to this Chapter and take such action as may be necessary to achieve the objective set out in Article 143, and shall submit a report thereon to the Conference.

2. The review shall include an examination of relevant programmes and support measures in order to determine their efficacy as a basis for their termination or modification as the case may be.

PART TWO - REGIME FOR DISADVANTAGED COUNTRIES, REGIONS AND SECTORS

Article 146
Measures to Redress Disadvantage Arising from Economic Dislocation

1. The Member States agree that where economic dislocation arising from the operation of the CSME occurs, and notwithstanding any provisions to the contrary in this Treaty, COTED may, as the case may require on a temporary basis and subject to Article 144, adopt effective measures to arrest or mitigate adverse effects on economic activity. Such measures may include the grant of incentives to address the dislocation and shall be without prejudice to any incentives provided for in Articles 52 and 69.

2. Notwithstanding any provisions to the contrary in this Treaty, the measures mentioned in this Article may, where necessary, provide for temporary derogations from rights and obligations set out in the Treaty.

3. COTED shall periodically examine the impact of the measures mentioned in paragraph 2 with a view to determining their adequacy and establishing a time-frame for their discontinuance.

4. The Member States shall co-operate with the Community Organs in implementing the measures mentioned in paragraph 2 of this Article and shall take the action required to secure compliance therewith.

Article 147
Promotion of Investment

COFAP shall promote investment in disadvantaged countries by, inter alia, facilitating:

(a) the establishment of joint ventures among nationals of disadvantaged

countries as well as between nationals of disadvantaged countries and nationals of other Member States;

(b) the establishment of joint ventures between nationals of disadvantaged countries and nationals of third countries;

(c) investment for economic diversification including diversification of the agricultural sector;

(d) research, development and the transfer of technology in the development of disadvantaged countries; and

(e) capital flows from other Member States to disadvantaged countries through the conclusion of double taxation agreements and appropriate policy instruments.

Article 148
Measures Relating to the Services Sector

1. COTED, in establishing the programme for removal of restrictions by Member States on the provision of services in the Community mentioned in paragraph 2 of Article 37 shall give due consideration to the peculiar economic vulnerability of disadvantaged countries, bearing in mind Article 49.

2. Without prejudice to the generality of the provisions set out in paragraph 1 of this Article, COTED shall, in establishing the said programme, determine in respect of disadvantaged countries:

(a) a list of services in respect of which national treatment may not be applied for a specified period of time;

(b) the manner in which restrictions on services not mentioned in sub-paragraph (a) of this paragraph shall be removed:

Provided that such disadvantaged countries shall accord the Member States rights no more restrictive than those accorded to other parties of the WTO under the General Agreement on Trade in Services (GATS).

Article 149
Measures Relating to the Right of Establishment

1. COTED shall take appropriate measures to ensure that, in establishing the programme for the removal of restrictions by the Member States on the right of establishment in the Community mentioned in paragraph 3 of Article 33, the peculiar economic vulnerability of disadvantaged countries in the Community is taken into account, bearing in mind Article 49.

2. Without prejudice to the generality of the provisions of paragraph 1 of this Article, COTED shall, in establishing the said programme, determine in respect of disadvantaged countries:

(a) a list of economic activities in respect of which national treatment may not be accorded to persons exercising the right of establishment for a specified period of time;

(b) the manner in which restrictions on the right of establishment in respect of economic activities not mentioned in sub-paragraph (a) of this paragraph shall be removed:

Provided that such disadvantaged countries shall accord to the Member States rights of establishment no more restrictive than those accorded to third States.

Article 150
Safeguard Measures

1. Where, in accordance with paragraph 1 of Article 92, a disadvantaged country establishes an entitlement to limit imports of goods from other Member States, then, notwithstanding any other provisions to the contrary in this Treaty, the disadvantaged country may limit such imports for a period of up to three (3) years unless COTED authorises the limitation for a longer period and take such other measures as COTED may authorise.

2. A disadvantaged country applying restrictions in accordance with paragraph 1 of this Article shall notify them to COTED, if possible, before they come into force. COTED may, at any time, consider those restrictions and shall, in light of such consideration, make recommendations designed to moderate any damaging effect of such restrictions or to assist the disadvantaged country to overcome its difficulties.

3. Nothing in this Treaty shall be construed as entitling any Member State to apply safeguard measures against the products of Community origin of a disadvantaged country where such products do not exceed 20 per cent of the market of the importing Member State.

Article 151
Support for Sensitive Industries

1. COTED may authorise a Member State having a sensitive industry which can be disadvantaged by the operation of the CSME to suspend Community treatment to products of other Member States.

2. The suspension authorised in paragraph 1 of this Article shall be granted upon application to COTED in that behalf where the applicant establishes that the product is from a sensitive industry.

3. For the purpose of this Article, an industry may be considered to be sensitive by reason of its vulnerable nature and:

(a) the significance of its contribution to, inter alia:

(i) Gross Domestic Product;

(ii) employment;

(iii) foreign exchange earnings; or

(b) its designation as vital within the national industrial policy.

4. Notwithstanding any other provisions of this Treaty, a disadvantaged country may, for the period of suspension decided upon by COTED, suspend Community

treatment in respect of imports of like description from the Member State granted the suspension.

5. COTED, in authorising the suspension mentioned in paragraph 1 of this Article may impose terms and conditions for the grant of the suspension.

6. COTED shall monitor the progress of the industry concerned and undertake a periodic review.

Article 152
Public Undertakings

Notwithstanding any provisions to the contrary in this Treaty, disadvantaged countries may, with the prior approval of COTED, maintain, in respect of public undertakings, measures, the effect of which is to afford support to domestic production where such measures are in the form of:

(a) a duty or charge having equivalent effect; or

(b) quantitative restrictions.

Article 153
Use of Technological and Research Facilities in Member States

1. The Member States undertake to provide opportunities for access to their technological and research facilities by nationals of disadvantaged countries.

2. COTED shall encourage close collaboration between research institutions and facilities located in disadvantaged countries with others located in other Member States.

Article 154
Promotion of Development

1. COTED shall promote the establishment of infrastructure in a disadvantaged country, region or sector to encourage or stimulate economic activity.

2. COTED may also adopt measures for the establishment of new industries or for the retooling or expansion of existing industries in a disadvantaged country, region or sector.

Article 155
Special Provisions for Guyana

Notwithstanding any provisions to the contrary in this Treaty, Guyana shall be allowed, for as long as it continues to benefit from wheat imports under PL 480 Agreements with the United States of America, to impose quantitative restrictions on the importation of wheat flour.

Article 156
Application of the Special Regime to
Highly-Indebted Poor Countries

COTED shall to the extent necessary and for a a period to be determined, apply the provisions of the Special Regime for the less developed countries to Highly-Indebted Poor Countries.

Article 157
Technical and Financial Assistance

1. As soon as practicable after the entry into force of this Treaty, the Community Council shall, in collaboration with other competent Organs of the Community, make adequate arrangements to extend to disadvantaged countries, regions and sectors such technical and financial assistance as may be required to allow them to participate effectively in the CSME and to administer international trade agreements.

2. Pursuant to paragraph 1 of this Article, COTED shall evaluate the need for technical and financial assistance to disadvantaged countries, regions and sectors, and promote and facilitate appropriate programmes and projects. Such assistance may include:

(a) grants or access to low-cost financing;

(b) preparation of project proposals for financing;

(c) performance guarantees and other guarantees to enterprises;

(d) accessing technology including information technology;

(e) product design or quality enhancement;

(f) factory design and market development.

3. Technical assistance within the meaning of this Article may also include:

(a) assistance to establish or upgrade national standardising bodies;

(b) assistance to countries to advance their diversification programmes;

(c) professional assistance in meeting obligations under trade-related agreements;

(d) assistance to establish institutions or centres for the training or retraining of employees as the case may require;

(e) provision of relevant expertise to formulate a legal policy framework conducive to fair trading and fair competition;

(f) professional expertise in espousing and defending claims arising in connection with the WTO Agreement and other trade-related agreements;

(g) professional assistance in preparing for disputes resolution arising in connection with trade-related agreements;

(h) professional assistance in preparing legislation.

4. The evaluation mentioned in paragraph 2 of this Article may be undertaken by COTED on its own initiative, or in response to an application for assistance issuing from a Member State.

5. COTED shall, from time to time, examine the impact of the measures mentioned in paragraph 2 with a view to determining their adequacy and establishing a time-frame for their discontinuance.

Article 158
The Development Fund

1. There is hereby established a Development Fund for the purpose of providing financial or technical assistance to disadvantaged countries, regions and sectors.

2. Subject to the provisions of this Article and relevant provisions of this Treaty, the Community Council, in collaboration with COFAP, shall:

(a) determine the status, composition and functions of the Development Fund;

(b) determine the contributions of the Member States to the Development Fund.

3. The Development Fund may accept subventions from public or private sector entities of the Member States or from other entities external to the Community. Subventions shall not be accepted nor applied by the Development Fund on conditions which discriminate against Member States, regions or sectors except in accordance with the provisions of this Treaty.

Article 159
Saving

Nothing in this Chapter shall be construed as disentitling a disadvantaged country, region or sector, being the beneficiary of any other technical assistance programme, from simultaneously benefiting from technical assistance pursuant to the provisions herein set forth.

PART THREE - SPECIAL REGIME FOR LESS DEVELOPED COUNTRIES

Article 160
Import Duties

Where a less developed country has suffered or is likely to suffer loss of revenue as a result of the importation of goods eligible for Community treatment, COTED may, on application made in that behalf by the less developed country, authorise the imposition of import duties on such goods for such time and on such terms and conditions as COTED may decide.

Article 161
Community Origin

The Member States agree that in the determination and operation of the criterion of substantial transformation pursuant to Article 84, the special needs of the less developed countries shall be taken into account.

Article 162
Incentive Regimes

The Member States agree that in the establishment of any programme for incentives in the Community provided for in Article 52 and Article 69, the special needs of the less developed countries shall be taken into account.

Article 163
The Common External Tariff

The Member States agree that in the implementation of the Common External Tariff provided for in Article 82, the special needs of the less developed countries shall be taken into account.

Article 164
Promotion of Industrial Development

1. Upon application made in that behalf by the less developed countries, COTED may, if necessary, as a temporary measure in order to promote the development of an industry in any of these States, authorise such States to suspend Community origin treatment to any description of imports eligible therefor on grounds of production in one or more less developed countries.

2. COTED may, in taking decisions pursuant to paragraph 1 of this Article, establish terms and conditions including a phasing-out period during which Member States and the Community shall provide support measures and the industry implement the necessary programmes for achieving competitiveness.

3. The grant of authorisation pursuant to paragraph 1 of this Article shall be by means of a decision supported by the affirmative votes of all the less developed countries and at least two of the more developed countries.

Article 165
Public Undertakings

Paragraph 1 of Article 94 hall not apply to the less developed countries.

Article 166
Use of Technological and Research Facilities

The more developed countries undertake to provide opportunities for the use of their technological and research facilities by the less developed countries.

Article 167
Special Provisions for Belize

Belize shall be allowed to impose import duties or quantitative restrictions on beer and cigarettes produced in the Community for a period ending 31 December 2000.

CHAPTER EIGHT - COMPETITION POLICY AND CONSUMER PROTECTION

PART ONE - RULES OF COMPETITION

Article 168
Scope of Chapter

The rules of competition shall not apply to -

(a) combinations or activities of employees for their own reasonable protection as employees;

(b) arrangements for collective bargaining on behalf of employers or employees for the purpose of fixing terms and conditions of employment;

(c) business conduct within the meaning of Article 177duly notified to COTED in accordance with Article 170;

(d) negative clearance rulings within the meaning of Article 180 or exemptions within the meaning of Articles 181 and 183;

(e) activities of professional associations designed to develop or enforce professional standards of competence reasonably necessary for the protection of the public and approved by the Commission.

Article 169
Objectives of Community Competition Policy

1. The goal of the Community Competition Policy shall be to ensure that the benefits expected from the establishment of the CSME are not frustrated by anti-competitive business conduct.

2. In fulfilment of the goal set out in paragraph 1 of this Article, the Community shall pursue the following objectives:

(a) the promotion and maintenance of competition and enhancement of economic efficiency in production, trade and commerce;

(b) subject to this Treaty, the prohibition of anti-competitive business conduct which prevents, restricts or distorts competition or which constitutes the abuse of a dominant position in the market; and

(c) the promotion of consumer welfare and protection of consumer interests.

Article 170
Implementation of Community Competition Policy

1. In order to achieve the objectives of the Community Competition Policy,

(a) the Community shall:

(i) subject to Articles 164, 177, 178 and 179 of this Treaty, establish appropriate norms and institutional arrangements to prohibit and penalise anti-competitive business conduct; and

(ii) establish and maintain information systems to enable enterprises and consumers to be kept informed about the operation of markets within the CSME;

(b) the Member States shall:

(i) take the necessary legislative measures to ensure consistency and compliance with the rules of competition and provide penalties for anti-competitive business conduct;

(ii) provide for the dissemination of relevant information to facilitate consumer choice;

(iii) establish and maintain institutional arrangements and administrative procedures to enforce competition laws; and

(iv) take effective measures to ensure access by nationals of other Member States to competent enforcement authorities including the courts on an equitable, transparent and non-discriminatory basis.

2. Every Member State shall establish and maintain a national competition authority for the purpose of facilitating the implementation of the rules of competition.

3. Every Member State shall require its national competition authority to:

(a) co-operate with the Commission in achieving compliance with the rules of competition;

(b) investigate any allegations of anti-competitive business conduct referred to the authority by the Commission or another Member State; .

(c) co-operate with other national competition authorities in the detection and prevention of anti-competitive business conduct, and the exchange of information relating to such conduct.

4. Nothing in this Article shall be construed as requiring a Member State to disclose confidential information, the disclosure of which would be prejudicial to the public interest or to the legitimate commercial interests of enterprises, public or private. Confidential or proprietary information disclosed in the course of an investigation shall be treated on the same basis as that on which it was provided.

5. Within 24 months of the entry into force of this Treaty, the Member States shall notify COTED of existing legislation, agreements and administrative practices inconsistent with the provisions of this Chapter. Within 36 months of entry into force of this Treaty, COTED shall establish a programme providing for the repeal of such legislation, and termination of agreements and administrative practices.

Article 171
Establishment of the Competition Commission

For the purposes of implementation of the Community Competition Policy, there is hereby established a Competition Commission (hereinafter called "the Commission") having the composition, functions and powers hereinafter set forth.

Article 172
Composition of the Commission

1. The Commission shall comprise seven members appointed by the Regional Judicial and Legal Services Commission to serve on the Commission. The Regional Judicial and Legal Services Commission shall appoint a Chairman from among the members so appointed.

2. The Commission shall comprise persons, collectively having expertise or experience in commerce, finance, economics, law, competition policy and practice, international trade and such other areas of expertise or experience as may be necessary.

3. A Commissioner shall be appointed for a term of five years and such appointment may be renewed for a further period of not more than five years as determined by the Regional Judicial and Legal Services Commission.

4. A Commissioner may be removed from office only for inability to perform the functions of his office or for misbehaviour and shall otherwise be subject to the disciplinary procedures of the Regional Judicial and Legal Services Commission.

5. A Commissioner shall be removed only on the vote of the Judicial and Legal Services Commission that represents not less than three-quarters of all the Members of the Commission.

6. A Commissioner may at any time resign the office of Commissioner by writing under his hand addressed to the Chairman of the Judicial and Legal Services Commission.

7. A Commissioner shall not enter upon the duties of the office unless he has taken and subscribed before the Chairman of the Judicial and Legal Services Commission, the Oath of Office set out in the Annex to this Treaty.

8. Notwithstanding the foregoing provisions of this Article, the Conference shall on the recommendation of COTED execute the functions required to be carried out by the Regional Judicial and Legal Services Commission where the Parties to the Agreement Establishing the Caribbean Court of Justice are less than seven.

Article 173
Functions of the Commission

1. The Commission shall:
   (a) apply the rules of competition in respect of anti-competitive cross-border business conduct;
   (b) promote and protect competition in the Community and co-ordinate the implementation of the Community Competition Policy; and
   (c) perform any other function conferred on it by any competent body of the Community.
2. In discharging the functions set out in paragraph 1, the Commission shall:
   (a) monitor anti-competitive practices of enterprises operating in the CSME, and investigate and arbitrate cross-border disputes;

(b) keep the Community Competition Policy under review and advise and make recommendations to COTED to enhance its effectiveness;

(c) promote the establishment of institutions and the development and implementation of harmonised competition laws and practices by the Member States to achieve uniformity in the administration of applicable rules;

(d) review the progress made by the Member States in the implementation of the legal and institutional framework for enforcement;

(e) co-operate with competent authorities in the Member States;

(f) provide support to the Member States in promoting and protecting consumer welfare;

(g) facilitate the exchange of relevant information and expertise; and

(h) develop and disseminate information about competition policy, and consumer protection policy.

3. The Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its functions to one or more of its members.

Article 174
Powers of the Commission

1. Subject to Articles 175 and 176, the Commission may, in respect of cross-border transactions or transactions with cross-border effects, monitor, investigate, detect, make determinations or take action to inhibit and penalise enterprises whose business conduct prejudices trade or prevents, restricts or distorts competition within the CSME.

2. The Commission may, in accordance with applicable national laws, in the conduct of its investigations:

(a) secure the attendance of any person before it to give evidence;

(b) require the discovery or production of any document or part thereof; and

(c) take such other action as may be necessary in furtherance of the investigation.

3. The Commission may, on the basis of its investigations, make determinations regarding the compatibility of business conduct with the rules of competition and other related provisions of the Treaty.

4. The Commission shall, to the extent required to remedy or penalise anti-competitive business conduct referred to in Article 177:

(a) order the termination or nullification as the case may require, of agreements, conduct, activities or decisions prohibited by Article 170;

(b) direct the enterprise to cease and desist from anti-competitive business conduct and to take such steps as are necessary to overcome the effects of abuse of its dominant position in the market, or any other business conduct inconsistent with the principles of fair competition set out in this Chapter;

(c) order payment of compensation to persons affected; and

(d) impose fines for breaches of the rules of competition.

5. The Commission may enter into such arrangements for the provision of services as may be necessary for the efficient performance of its functions.

6. The Member States shall enact legislation to ensure that determinations of the Commission are enforceable in their jurisdictions.

7. The Commission may establish its own rules of procedure.

Article 175
Determination of Anti-Competitive Business Conduct: Procedure of Commission on Request

1. A Member State may request an investigation referred to in paragraph 1 of Article 174 where it has reason to believe that business conduct by an enterprise located in another Member State prejudices trade and prevents, restricts or distorts competition in the territory of the requesting Member State.

2. Where COTED has reason to believe that business conduct by an enterprise in the CSME prejudices trade and prevents, restricts or distorts competition within the CSME and has or is likely to have cross-border effects, COTED may request an investigation referred to in paragraph 1 of Article 174.

3. Requests under paragraphs 1 and 2 shall be in writing and shall disclose sufficient information for the Commission to make a preliminary assessment whether it should proceed with the investigation.

4. Upon receipt of a request mentioned in paragraph 3, the Commission shall consult with the interested parties and shall determine on the basis of such consultations whether:

(a) the investigation is within the jurisdiction of the Commission; and

(b) the investigation is justified in all the circumstances of the case.

5. The consultations shall be concluded within 30 days of the date of receipt of the request for the investigation, unless the parties agree to continue the consultations for a longer period.

6. Where the Commission decides to conduct the investigation, the Commission shall:

(a) notify the interested parties and COTED;

(b) complete the investigation within 120 days from the date of receipt of the request for the investigation; and

(c) where the circumstances so warrant, extend the time period for completion of the investigation and notify the interested parties.

7. Where the Commission decides to conduct an enquiry following an investigation, the Commission shall afford any party complained of the opportunity to defend its interest.

8. At the conclusion of an enquiry, the Commission shall notify the interested parties of its determination.

9. Where the Commission determines that a party has engaged in anti-competitive business conduct, it shall also require the party to take the action necessary to remove the effects of the anti-competitive business conduct.

10. Where a specific course of action is required under paragraph 9, the enterprise concerned shall take the appropriate course of action within 30 days of the date of notification. If the concerned enterprise cannot comply, it shall notify the Commission and request an extension.

11. If the enterprise cannot comply within the time period specified and fails to inform the Commission, the Commission may apply to the Court for an order.

12. A party which is aggrieved by a determination of the Commission under paragraph 4 of Article 174 in any matter may apply to the Court for a review of that determination.

Article 176
Determination of Anti-Competitive Business Conduct:
Procedure of Commission Proprio Motu

1. Where the Commission has reason to believe that business conduct by an enterprise in the CSME prejudices trade and prevents, restricts, or distorts competition within the CSME and has cross-border effects, the Commission shall request the national competition authority to undertake a preliminary examination of the business conduct of the enterprise.

2. Where a request is made under paragraph 1, the national competition authority shall examine the matter and report its findings to the Commission within such time as may be determined by the Commission.

3. Where the Commission is not satisfied with the outcome of its request, the Commission may initiate its own preliminary examination into the business conduct of the enterprise referred to in paragraph 1.

4. Where the findings of the preliminary examination under paragraphs 2 and 3 require investigation, the Commission and the Member State concerned shall hold consultations to determine and agree on who should have jurisdiction to investigate.

5. If there is a difference of opinion between the Commission and the Member State regarding the nature and effects of the business conduct or the jurisdiction of the investigating authority, the Commission shall:

(a) cease any further examination of the matter; and

(b) refer the matter to COTED for its decision.

6. Nothing in this Article shall prejudice the right of the Member State to initiate proceedings before the Court at any time.

7. Where there is a finding that the Commission has jurisdiction to investigate the matter, the Commission shall follow the procedures set out in paragraphs 5, 6, 7 and 8 of Article 175.

Article 177
Prohibition of Anti-Competitive Business Conduct

1. A Member State shall, within its jurisdiction, prohibit as being anti-competitive business conduct, the following:

(a) agreements between enterprises, decisions by associations of enterprises, and concerted practices by enterprises which have as their object or effect the prevention, restriction or distortion of competition within the Community;

(b) actions by which an enterprise abuses its dominant position within the Community; or

(c) any other like conduct by enterprises whose object or effect is to frustrate the benefits expected from the establishment of the CSME.

2. Anti-competitive business conduct within the meaning of paragraph 1 includes the following:

(a) the direct or indirect fixing of purchase or selling prices,

(b) the limitation or control of production, markets, investment or technical development;

(c) the artificial dividing up of markets or restriction of supply sources;

(d) the application of unequal conditions to parties undertaking equivalent engagements in commercial transactions thereby causing a competitive disadvantage;

(e) making the conclusion of a contract subject to the acceptance by the other party to the contract of additional obligations which, by their nature or according to commercial practice, have no connection with the subject matter of the contract;

(f) unauthorised denial of access to networks or essential infrastructure;

(g) predatory pricing;

(h) price discrimination;

(i) loyalty discounts or concessions;

(j) exclusionary vertical restrictions; and

(k) bid-rigging.

3. Subject to Article 168, a Member State shall ensure that all agreements and decisions within the meaning of paragraph 1 of this Article shall be null and void within its jurisdiction.

4. An enterprise shall not be treated as engaging in anti-competitive business conduct if it establishes that the activity complained of:

(a) contributes to:

(i) the improvement of production or distribution of goods and services; or

(ii) the promotion of technical or economic progress,

while allowing consumers a fair share of the resulting benefit;

(b) imposes on the enterprises affected only such restrictions as are indispensable to the attainment of the objectives mentioned in sub-paragraph (a); or

(c) does not afford the enterprise engaged in the activity the possibility of eliminating competition in respect of a substantial part of the market for goods or services concerned.

Article 178
Determination of Dominant Position

For the purposes of this Chapter:

(a) an enterprise holds a dominant position in a market if by itself or together with an interconnected enterprise, it occupies such a position of economic strength as will enable it to operate in the market without effective constraints from its competitors or potential competitors;

(b) any two enterprises shall be treated as interconnected enterprises if one of them is a subsidiary of the other or both of them are subsidiaries of the same parent enterprise.

Article 179
Abuse of a Dominant Position

1. Subject to paragraph 2 of this Article, an enterprise abuses its dominant position in a market if it prevents, restricts or distorts competition in the market and, in particular but without prejudice to the generality of the foregoing, it:

(a) restricts the entry of any enterprise into a market;

(b) prevents or deters any enterprise from engaging in competition in a market;

(c) eliminates or removes any enterprise from a market;

(d) directly or indirectly imposes unfair purchase or selling prices or other restrictive practices;

(e) limits the production of goods or services for a market to the prejudice of consumers;

(f) as a party to an agreement, makes the conclusion of such agreement subject to acceptance by another party of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of the agreement;

(g) engages in any business conduct that results in the exploitation of its customers or suppliers,

so as to frustrate the benefits expected from the establishment of the CSME.

2. In determining whether an enterprise has abused its dominant position, consideration shall be given to:

(a) the relevant market defined in terms of the product and the geographic context;

(b) the concentration level before and after the relevant activity of the enterprise measured in terms of annual sales volume, the value of assets and the value of the transaction;

(c) the level of competition among the participants in terms of number of competitors, production capacity and product demand;

(d) the barriers to entry of competitors; and

(e) the history of competition and rivalry between participants in the sector of activity.

3. An enterprise shall not be treated as abusing its dominant position if it establishes that:

(a) its behaviour was directed exclusively to increasing efficiency in the production, provision or distribution of goods or services or to promoting technical or economic progress and that consumers were allowed a fair share of the resulting benefit;

(b) it reasonably enforces or seeks to enforce a right under or existing by virtue of a copyright, patent, registered trade mark or design; or

(c) the effect or likely effect of its behaviour on the market is the result of superior competitive performance of the enterprise concerned.

Article 180
Negative Clearance Rulings

1. In any case where a Member State is uncertain whether business conduct is prohibited by paragraph 1 of Article 177, such a Member State may apply to the Commission for a ruling on the matter. If the Commission determines that such conduct is not prohibited by paragraph 1 of Article 177, it shall issue a negative clearance ruling to this effect.

2. Subject to paragraph 3, a negative clearance ruling shall be conclusive of the matters stated therein in any judicial proceedings in the Community.

3. The Court may, on an application of the Commission, review a decision of the Commission where the decision was induced by deceit or improper means.

Article 181
De Minimis Rule

The Commission may exempt from the provisions of this Part any business conduct referred to it if it considers that the impact of such conduct on competition and trade in the CSME is minimal.

Article 182
Powers of the COTED Respecting Community Competition Policy and Rules

Subject to this Treaty, COTED shall develop and establish appropriate policies and rules of competition within the Community including special rules for particular sectors.

Article 183
Exemptions

1. Where COTED determines, pursuant to Article 182, that special rules shall apply to specific sectors of the Community, it may suspend or exclude the application of Article 177 to such sectors pending adoption of the relevant rules.

2. COTED may, on its own initiative or pursuant to an application by a Member State in that behalf, exclude or suspend the application of Article 177 to any sector or any enterprise or group of enterprises in the public interest.

PART TWO - CONSUMER PROTECTION

Article 184
Promotion of Consumer Interests in the Community

1. The Member States shall promote the interests of consumers in the Community by appropriate measures that:

(a) provide for the production and supply of goods and the provision of services to ensure the protection of life, health and safety of consumers;

(b) ensure that goods supplied and services provided in the CSME satisfy regulations, standards, codes and licensing requirements established or approved by competent bodies in the Community;

(c) provide, where the regulations, standards, codes and licensing requirements referred to in paragraph (b) do not exist, for their establishment and implementation;

(d) encourage high levels of ethical conduct for those engaged in the production and distribution of goods and services to consumers;

(e) encourage fair and effective competition in order to provide consumers with greater choice among goods and services at lowest cost;

(f) promote the provision of adequate information to consumers to enable the making of informed choices;

(g) ensure the availability of adequate information and education programmes for consumers and suppliers;

(h) protect consumers by prohibiting discrimination against producers and suppliers of goods produced in the Community and against service

providers who are nationals of other Member States of the Community;

(i) encourage the development of independent consumer organisations;

(j) provide adequate and effective redress for consumers.

2. For the purpose of this Part, "consumer" means any person:

(a) to whom goods or services are supplied or intended to be supplied in the course of business carried on by a supplier or potential supplier; and

(b) who does not receive the goods or services in the course of a business carried on by him.

Article 185
Protection of Consumer Interests
tn the Community

The Member States shall enact harmonised legislation to provide, inter alia:

(a) for the fundamental terms of a contract and the implied obligations of parties to a contract for the supply of goods or services;

(b) for the prohibition of the inclusion of unconscionable terms in contracts for the sale and supply of goods or services to consumers;

(c) for the prohibition of unfair trading practices, particularly such practices relating to misleading or deceptive or fraudulent conduct;

(d) for the prohibition of production and supply of harmful and defective goods and for the adoption of measures to prevent the supply or sale of such goods including measures requiring the removal of defective goods from the market;

(e) that the provision of services is in compliance with the applicable regulations, standards, codes and licensing requirements;

(f) that goods supplied to consumers are labelled in accordance with standards and specifications prescribed by the competent authorities;

(g) that hazardous or other goods whose distribution and consumption are regulated by law are sold or supplied in accordance with applicable regulations;

(h) that goods or materials, the production or use of which is likely to result in potentially harmful environmental effects, are labelled and supplied in accordance with applicable standards and regulations;

(i) that producers and suppliers are liable for defects in goods and for violation of product standards and consumer safety standards which occasion loss or damage to consumers;

(j) that violations of consumer safety standards by producers or suppliers are appropriately sanctioned and relevant civil or criminal defences to such violations are available to defendants.

Article 186
Action by the Commission to Provide Support in the Promotion of Consumer Welfare and Protection of Consumer Interests

1. The Commission shall, for the purpose of providing support to the Member States in the enhancement of consumer education and consumer welfare:

(a) promote in the Community the elaboration, publication and adoption of fair contract terms between suppliers and consumers of goods and services produced or traded in the CSME;

(b) take such measures as it considers necessary to ensure that the Member States discourage and eliminate unfair trading practices, including misleading or deceptive conduct, false advertising, bait advertising, referral selling and pyramid selling;

(c) promote in the Member States product safety standards as part of a programme of consumer education in order to assist the consumer to make informed choices concerning the purchase of consumer goods;

(d) keep under review the carrying on of commercial activities in the Member States which relate to goods supplied to consumers in such States or produced with a view to their being so supplied, or which relate to services supplied for consumers with a view to identifying practices which may adversely affect the interests of consumers;

(e) educate and guide consumers generally in the practical resolution of their problems and in the best use of their income and credit, using such techniques and means of communications as are available;

(f) confer, on request, with consumer organisations of the Member States and offer such advice and information as may be appropriate for the resolution of their consumer problems;

(g) establish the necessary co-ordination with government agencies and departments for the effective education and guidance of consumers having regard to the programmes, activities and resources of each agency or department;

(h) conduct research and collect and collate information in respect of matters affecting the interests of consumers;

(i) compile, evaluate and publicise enactments for the protection of consumers in such States and recommend to COTED the enactment of legislation considered necessary or desirable for the protection of consumers;

(j) promote, after consultation with the competent standardising agency and other public and private agencies or organisations, the establishment of quality standards for consumer products;

(k) promote and monitor, after consultation with relevant agencies and departments of Government, the enforcement of legislation affecting the

interests of consumers, including, but not limited to, legislation relating to weights and measures, food and drugs adulteration, the control of standards and price controls;

(l) make recommendations to COTED for the enactment of legislation by the Member States for the effective enforcement of the rights of consumers.

2. The Commission shall:

(a) draw to the attention of COTED business conduct by enterprises which impacts adversely on consumer welfare;

(b) collaborate with competent Organs of the Community to promote consumer education and consumer welfare.

CHAPTER NINE - DISPUTES SETTLEMENT

Article 187
Scope of the Chapter

The provisions of this Chapter shall apply to the settlement of disputes concerning the interpretation and application of the Treaty, including:

(a) allegations that an actual or proposed measure of another Member State is, or would be, inconsistent with the objectives of the Community;

(b) allegations of injury, serious prejudice suffered or likely to be suffered, nullification or impairment of benefits expected from the establishment and operation of the CSME;

(c) allegations that an organ or body of the Community has acted ultra vires; or

(d) allegations that the purpose or object of the Treaty is being frustrated or prejudiced.

Article 188
Modes of Dispute Settlement

1. Subject to the provisions of this Treaty, the disputes mentioned in Article 187 shall be settled only by recourse to any one of the following modes for the settlement of disputes, namely, good offices, mediation, consultations, conciliation, arbitration and adjudication.

2. Where a dispute has not been settled following the adoption of one of the modes referred to in paragraph 1 other than arbitration or adjudication, either party may have recourse to another mode.

3. Subject to the procedural rules applicable in respect of arbitration or adjudication, the parties may agree, pending a settlement, to have recourse to good offices, mediation or conciliation in order to arrive at a settlement.

4. Without prejudice to the exclusive and compulsory jurisdiction of the Court in the interpretation and application of this Treaty under Article 211, the parties may use any of the voluntary modes of dispute settlement provided for in this Article in the settlement of a dispute.

Article 189
Expeditious Settlement of Disputes

Where a dispute arises between Member States, the parties shall proceed expeditiously to an exchange of views for the purpose of agreeing on:

(a) a mode of settlement and where an agreed mode has been terminated, to another mode of settlement; or

(b) a mutually satisfactory method of implementation where a settlement has been reached and the circumstances require consultation regarding its implementation.

Article 190
Notification of Existence and Settlement of Disputes

1. Member States parties to a dispute shall notify the Secretary-General of:

(a) the existence and nature of the dispute; and

(b) any mode of dispute settlement agreed upon or initiated.

2. Where a settlement is reached the Member States concerned shall notify the Secretary-General of the settlement and the mode used in arriving at the settlement.

3. The Secretary-General shall, as soon as practicable after receiving the information pursuant to paragraphs 1 and 2, notify other Member States of the information received.

Article 191
Good Offices

1. Member States parties to a dispute may agree to employ the good offices of a third party, including those of the Secretary-General, to settle the dispute.

2. Good offices may begin or be terminated at any time. Subject to the procedural rules applicable in respect of arbitration or adjudication, good offices may continue during the course of arbitration or adjudication.

Article 192
Mediation

1. Where Member States parties to a dispute agree to settle the dispute by recourse to mediation, the parties may agree on a mediator or may request the Secretary-General to appoint a mediator from the list of conciliators mentioned in Article 196.

2. Mediation may begin or be terminated at any time. Subject to the procedural rules applicable in respect of arbitration or adjudication, mediation may continue during the course of arbitration or adjudication.

3. Proceedings involving mediation and, in particular, positions taken by parties during the proceedings, shall be confidential and without prejudice to the rights of the parties in any further proceedings.

Article 193
Obligation to Enter Consultations

1. A Member State shall enter into consultations upon the request of another Member State where the requesting Member State alleges that an action taken by the requested Member State constitutes a breach of obligations arising from or under the provisions of this Treaty.

2. Where a request for consultations is made pursuant to paragraph 1, the requested Member State shall enter into consultations within 14 days of the receipt of the request or a mutually agreed period.

3. Where:

(a) consultations have not been entered into within the period referred to in paragraph 2; or

(b) the consultations fail to settle the dispute within 45 days of the receipt of the request for consultations or the dates mutually agreed,

the requesting Member State may resort to any mode of dispute settlement including arbitration and adjudication.

4. Requests for consultations shall be in writing. The request shall state the reasons for the consultations and identify the measure at issue and the legal basis for the complaint.

5. The Secretary-General shall be notified of any request for consultations.

6. Consultations shall be confidential and without prejudice to the rights of the Member States in any further proceedings. However, before resorting to further proceedings, the Member States shall employ their best endeavours to settle the dispute.

7. In cases of urgency including those concerning perishable goods, the requested Member State shall enter into consultations within 3 days of the receipt of the request, and where such consultations are not entered into, the requesting Member State may resort to arbitration and adjudication.

8. Where consultations under paragraph 7 fail to settle the dispute within 7 days of the receipt of the request for such consultations, the requesting Member State may resort to arbitration and adjudication.

9. Whenever a Member State, other than the consulting Member States, considers that it has a legitimate interest in consultations being held pursuant to this Article, such Member State may notify the consulting Member States and the Secretary-General, within 10 days after the date of the circulation of the request for consultations, of its desire to be joined in the consultations. Such Member State shall be joined in the consultations, provided that the requested Member State agrees that the claim of legitimate interest is well-founded and based on similar facts and circumstances. In that event, the Member States concerned shall notify the Secretary-General. If the

request to be joined in the consultations is not granted, the applicant Member State may request consultations under paragraph 1 of this Article.

Article 194
Obligations of Consulting Parties

Where Member States parties to a dispute agree to settle the dispute by consultations, they shall endeavour to arrive at a mutually satisfactory settlement of the dispute through the consultations, and to this end shall:

(a) provide sufficient information to enable a full examination of how the action complained of constitutes a breach of obligations arising from or under the provisions of this Treaty referred to in Article 193; and

(b) treat any confidential or proprietary information exchanged in the course of consultations on the same basis as it is treated by the Member State providing the information.

Article 195
Initiation of Conciliation Proceedings

Where Member States parties to a dispute have agreed to submit the dispute to conciliation under this Part, any such Member State may institute proceedings by notification addressed to the other party or parties to the dispute.

Article 196
Establishment of a List of Conciliators

1. A List of Conciliators shall be established and maintained by the Secretary-General. Every Member State shall be entitled to nominate two conciliators, each of whom shall be a person enjoying the highest reputation for fairness, competence and integrity. The names of the persons so nominated shall constitute the List. If at any time the number of conciliators nominated by a Member State is less than two, the Member State concerned shall be entitled to make such nominations as are necessary. The name of a conciliator shall remain on the List until withdrawn by the Member State which made the nomination and where a conciliator has been appointed to serve on any mediation or conciliation commission, the conciliator shall continue to serve on such commission until the completion of the relevant proceedings.

2. The term of a conciliator, including that of a conciliator appointed to fill a vacancy, shall be five (5) years and may be renewed.

Article 197
Constitution of Conciliation Commission

A conciliation commission shall be constituted from time to time as follows:

(a) subject to the provisions of this Article, a conciliation commission shall consist of three members;

(b) unless the parties otherwise agree, the party instituting the proceedings shall appoint one conciliator to be chosen from the List mentioned in Article 196. The conciliator appointed may be a national of the party

making the appointment. Such an appointment shall be included in the notification mentioned in Article 195;

(c) the other party to the dispute shall appoint a conciliator in the manner set forth in sub-paragraph (b) within ten days of the notification referred to in Article 195. If the appointment is not made within that period, the party instituting the proceedings may, within one week of the expiration of that period, either terminate the proceedings by notification addressed to the other party or request the Secretary-General to make the appointment in accordance with sub-paragraph (e);

(d) within ten days after both conciliators have been appointed, they shall appoint a third conciliator chosen from the List referred to in Article 196, and who shall be the Chairman. If the appointment is not made within that period either party may, within the week of the expiration of that period, request the Secretary-General to make the appointment in accordance with sub-paragraph (e);

(e) within ten days of the receipt of a request under sub-paragraphs (c) and (d), the Secretary-General shall make the necessary appointments from the List referred to in Article 196 in consultation with the parties to the dispute;

(f) any vacancy on a conciliation commission shall be filled in the manner prescribed for the initial appointment;

(g) two or more Member States parties to the dispute which determine by agreement that they are of the same interest shall appoint one conciliator jointly;

(h) in disputes involving more than two parties having separate interests, or where there is disagreement as to whether they are of the same interest, the parties shall apply sub-paragraphs (a) to (f) in so far as may be possible.

Article 198
Amicable Settlement

A conciliation commission may draw to the attention of the Member States parties to the dispute any measures which might facilitate an amicable settlement of the dispute.

Article 199
Functions of Conciliation Commission

A conciliation commission shall hear the Member States parties to the dispute, examine their claims and objections, and make proposals to the parties with a view to reaching an amicable settlement.

Article 200
Procedure

1. A conciliation commission shall, unless the Member States parties to the dispute otherwise agree, determine its own procedure. A conciliation commission may, with

the consent of the parties to the dispute, invite any Member State to submit its views to the commission, orally or in writing. The report and recommendations and decisions of the commission regarding procedural matters shall be made by a majority vote of its members.

2. The Member States parties to the dispute may, by agreement applicable solely to that dispute, modify the procedure referred to in paragraph 1.

Article 201
Report

1. A conciliation commission shall report within three months of its constitution. Its report shall record any agreements reached and, failing agreement, its conclusions on all questions of fact or law relevant to the matter in dispute and such recommendations as a conciliation commission may deem appropriate for an amicable settlement.

2. The conclusions or recommendations of a conciliation commission shall not be binding upon the parties.

Article 202
Termination

The conciliation proceedings shall be deemed to be terminated when a settlement has been reached, when the parties have accepted or one party has rejected the recommendations of the report by notification addressed to the Secretary-General, or when a period of one month has expired from the date of transmission of the report to the parties.

Article 203
Fees and Expenses

The fees and expenses of a conciliation commission shall be borne by the Member States parties to the dispute.

Article 204
Arbitration

A Member State party to a dispute may, with the consent of the other party, refer the matter to an arbitral tribunal constituted in accordance with the provisions of this Chapter.

Article 205
Constitution of the List of Arbitrators

1. For the purposes of constituting the arbitral tribunal referred to in Article 206, the Secretary-General shall establish and maintain a List of Arbitrators comprising persons chosen strictly on the basis of impartiality, reliability and sound judgment and who shall:

(a) have expertise or experience in law, international trade, other matters covered by this Treaty, or the settlement of disputes arising under international trade agreements;

(b) be independent of, and not be affiliated with or take instructions from any Member State; and

(c) comply with the Code of Judicial Conduct governing the behaviour of judges of the Court.

2. The term of an arbitrator, including that of any arbitrator nominated to fill a vacancy, shall be five years and may be renewed.

Article 206
Constitution of Arbitral Tribunal

1. Each of the Member States parties to a dispute shall be entitled to appoint one arbitrator from the List of Arbitrators. The two arbitrators chosen by the parties shall be appointed within fifteen days following the decision to refer the matter to arbitration. The two arbitrators shall, within fifteen days following the date of their appointments, appoint a third arbitrator from the List who shall be the Chairman. As far as practicable, the arbitrators shall not be nationals of any of the parties to the dispute.

2. Where either party to the dispute fails to appoint its arbitrator under paragraph 1, the Secretary-General shall appoint the arbitrator within ten days. Where the arbitrators fail to appoint a Chairman within the time prescribed, the Secretary-General shall appoint a Chairman within ten days.

3. Where more than two Member States are parties to a dispute, the parties concerned shall agree among themselves on the two arbitrators to be appointed from the List of Arbitrators within fifteen days following the decision to refer the matter to arbitration and the two arbitrators shall within fifteen days of their appointment appoint a third arbitrator from the List who shall be the Chairman.

4. Where no agreement is reached under paragraph three, the Secretary-General shall make the appointment within ten days and where the arbitrators fail to appoint a Chairman within the time prescribed the Secretary-General shall make the appointment within ten days.

5. Notwithstanding paragraphs 1, 2, 3 and 4, Member States parties to a dispute may refer the matter to arbitration and consent to the Secretary-General appointing a sole arbitrator from the list who shall not be a national of a Party to the dispute.

Article 207
Rules of Procedure of Arbitral Tribunal

1. Subject to the relevant provisions of this Chapter, the arbitral tribunal shall establish its own rules of procedure.

2. The procedures shall assure a right to at least one hearing before the arbitral tribunal as well as the opportunity to provide initial and rebuttal written submissions.

3. The arbitral tribunal's hearings, deliberations and initial report, and all written submissions to and communications with the arbitral tribunal, shall be confidential.

4. The arbitral tribunal may invite any Member State to submit views orally or in writing.

5 The award of the arbitral tribunal shall be confined to the subject matter of the dispute and shall state the reasons on which it is based.

6. Where the parties cannot agree on the interpretation or implementation of the award, either party may apply to the arbitral tribunal for a ruling within thirty days of the award. The term of the arbitral tribunal shall come to an end unless an application for a ruling has been received, in which case it shall continue for such reasonable time, not exceeding thirty days, as may be required to make the ruling.

7. Decisions of the arbitral tribunal shall be taken by a majority vote of its members and shall be final and binding on the Member States parties to the dispute.

Article 208
Third Party Intervention

A Member State which is not a party to a dispute, on delivery of a notification to the parties to a dispute and to the Secretary-General, shall be entitled to attend all hearings and to receive written submissions of the parties to a dispute and may be permitted to make oral or written submissions to the arbitral tribunal.

Article 209
Additional Information from Experts

Where proceedings have commenced, the arbitral tribunal may, on its own initiative or on the request of a party to the dispute, seek information and technical advice from any expert or body that it considers appropriate, provided that the parties to the dispute so agree and subject to such terms and conditions as the parties may agree.

Article 210
Expenses of Arbitral Tribunal

1. The expenses of the arbitral tribunal, including the fees and subsistence allowances of arbitrators and experts engaged for the purposes of a dispute, shall be borne equally by the Member States parties to the dispute unless the arbitral tribunal, taking into account the circumstances of the case, otherwise determines.

2. Where a third party intervenes in the proceedings, the party shall bear the costs associated with the intervention.

Article 211
Jurisdiction of the Court in Contentious Proceedings

1. Subject to this Treaty, the Court shall have compulsory and exclusive jurisdiction to hear and determine disputes concerning the interpretation and application of the Treaty, including:

(a) disputes between the Member States parties to the Agreement;

(b) disputes between the Member States parties to the Agreement and the Community;

(c) referrals from national courts of the Member States parties to the Agreement;

(d) applications by persons in accordance with Article 222,

concerning the interpretation and application of this Treaty.

2. For the purpose of this Chapter, "national courts" includes the Eastern Caribbean Supreme Court.

Article 212
Advisory Opinions of the Court

1. The Court shall have exclusive jurisdiction to deliver advisory opinions concerning the interpretation and application of the Treaty.

2. Advisory opinions shall be delivered only at the request of the Member States parties to a dispute or the Community.

Article 213
Institution of Proceedings

Any party to a dispute may institute proceedings in accordance with the Rules of Court governing Original Jurisdiction.

Article 214
Referral to the Court

Where a national court or tribunal of a Member State is seised of an issue whose resolution involves a question concerning the interpretation or application of this Treaty, the court or tribunal concerned shall, if it considers that a decision on the question is necessary to enable it to deliver judgment, refer the question to the Court for determination before delivering judgment.

Article 215
Compliance with Judgments of the Court

The Member States, Organs, Bodies of the Community, entities or persons to whom a judgment of the Court applies, shall comply with that judgment promptly.

Article 216
Compulsory Jurisdiction of the Court

1. The Member States agree that they recognise as compulsory, ipso facto and without special agreement, the original jurisdiction of the Court referred to in Article 211.

2. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be determined by decision of the Court.

Article 217
Law to be Applied by the Court in the Exercise of its Original Jurisdiction

1. The Court, in exercising its original jurisdiction under Article 211, shall apply such rules of international law as may be applicable.

2. The Court may not bring in a finding of non liquet on the ground of silence or obscurity of the law.

3. The provisions of paragraphs 1 and 2 shall not prejudice the power of the Court to decide a dispute ex aequo et bono if the parties so agree.

Article 218
Application for Interim Measures

The Court shall have the power to prescribe, if it considers the circumstances so require, any interim measures that ought to be taken to preserve the rights of either party.

Article 219
Revision of Judgments of the Court in the Exercise of its Original Jurisdiction

1. The Court shall, in the exercise of its Original Jurisdiction, be competent to revise its judgment on an application made in that behalf.

2. An application for the revision of a judgment of the Court in the exercise of its original jurisdiction may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and to the party claiming revision: provided always the ignorance of that fact was not due to negligence on the part of the applicant.

3. Proceedings for a revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognising that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

4. The Court may require previous compliance with the terms of the judgment before it admits proceedings for a revision.

5. The application for a revision shall be made within six months of the discovery of the new fact.

6. No application for a revision may be made after the lapse of five years from the date of the judgment.

Article 220
Rules of Court Governing Original Jurisdiction

The Rules of Court established by the President of the Court in accordance with Article XXI of the Agreement shall apply in the exercise of the original jurisdiction of the Court.

Article 221
Judgment of the Court to Constitute Stare Decisis

Judgments of the Court shall constitute legally binding precedents for parties in proceedings before the Court unless such judgments have been revised in accordance with Article 219.

Article 222
Locus Standi of Private Entities

Persons, natural or juridical, of a Contracting Party may, with the special leave of the Court, be allowed to appear as parties in proceedings before the Court where:

(a) the Court has determined in any particular case that this Treaty intended that a right or benefit conferred by or under this Treaty on a Contracting Party shall enure to the benefit of such persons directly; and

(b) the persons concerned have established that such persons have been prejudiced in respect of the enjoyment of the right or benefit mentioned in paragraph (a) of this Article; and

(c) the Contracting Party entitled to espouse the claim in proceedings before the Court has:

  (i) omitted or declined to espouse the claim, or

  (ii) expressly agreed that the persons concerned may espouse the claim instead of the Contracting Party so entitled; and

(d) the Court has found that the interest of justice requires that the persons be allowed to espouse the claim.

Article 223
Alternative Disputes Settlement

1. The Member States shall, to the maximum extent possible, encourage and facilitate the use of arbitration and other modes of alternative disputes settlement for the settlement of private commercial disputes among Community nationals as well as among Community nationals and nationals of third States.

2. Each Member State shall provide appropriate procedures in its legislation to ensure observance of agreements to arbitrate and for the recognition and enforcement of arbitral awards in such disputes.

3. A Member State which has implemented the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards or the Arbitration Rules of the United Nations Commission on International Trade Law shall be deemed to be in compliance with the provisions of paragraph 2 of this Article.

Article 224
General Undertaking

Each Member State undertakes to employ its best endeavours to complete the constitutional and legislative procedures required for its participation in the regime establishing the Court as soon as possible.

CHAPTER TEN - GENERAL AND FINAL PROVISIONS

Article 225
Security Exceptions

Nothing in this Treaty shall be construed:

(a) as requiring any Member State to furnish information, the disclosure of which it considers contrary to its essential security interests;

(b) as preventing any Member State from taking any action which it considers necessary for the protection of its essential security interests:

(i) relating to the supply of services carried out directly or indirectly for the purpose of provisioning a military establishment;

(ii) in time of war or other emergency in international relations; or

(c) as preventing any Member State from taking any action in pursuance of its obligations for the maintenance of international peace and security.

Article 226
General Exceptions

1. Nothing in this Chapter shall be construed as preventing the adoption or enforcement by any Member State of measures:

(a) to protect public morals or to maintain public order and safety;

(b) to protect human, animal or plant life or health;

(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 intellectual property or to prevent deceptive practices;

(e) relating to gold or silver;

(f) relating to the products of prison labour;

(g) relating to child labour;

(h) imposed for the protection of national treasures of artistic, historic or archaeological value;

(i) necessary to prevent or relieve critical food shortages in any exporting Member State;

(j) relating to the conservation of natural resources or the preservation of the environment;

(k) to secure compliance with laws or regulations which are not inconsistent with the provisions of this Treaty including those relating to:

(i) the prevention of deceptive and fraudulent practices, and the effects of a default on contracts;

(ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts; and

(l) to give effect to international obligations including treaties on the avoidance of double taxation,

(m) but only if such measures do not constitute arbitrary or unjustifiable discrimination between Member States where like conditions prevail, or a disguised restriction on trade within the Community.

2. Measures taken by the Member States pursuant to paragraph 1 shall be notified to COTED.

3. The Community Council shall take appropriate measures to co-ordinate applicable legislation, regulations and administrative practices established in accordance with Article 44.

Article 227
Notification

Where in this Treaty provision is made for notification to an Organ of the Community, such notification shall be effected through the Secretariat.

Article 228
Legal Capacity of the Community

1. The Community shall have full juridical personality.

2. Every Member State shall in its territory accord to the Community the most extensive legal capacity accorded to legal persons under its laws including the capacity to acquire and dispose of movable and immovable property and to sue and be sued in its own name. In any legal proceedings, the Community shall be represented by the Secretariat.

3. The Community may also conclude agreements with States and International Organisations.

4. The Member States agree to take such action as is necessary to give effect in their territories to the provisions of this Article and shall promptly inform the Secretariat of such action.

Article 229
Privileges and Immunities of the Community

1. The Headquarters Agreement concluded between the Caribbean Community and Common Market and the Government of Guyana on 23 January 1976 shall continue to govern relations between the Community and the host country.

2. The Protocol on Privileges and Immunities concluded by the Member States in connection with the Caribbean Community and Common Market shall govern relations between the Community and such Member States.

Article 230
Negotiation and Conclusion of Agreements

1. Conference may designate any Organ or Body of the Community to negotiate agreements for the achievement of the objectives of the Community.

2. Conference may delegate to the Secretary-General the conclusion of agreements, particularly technical assistance agreements, on behalf of the Community.

Article 231
Associate Membership

Conference may admit any Caribbean State or Territory to associate membership of the Community on such terms and conditions as Conference thinks fit.

Article 232
Signature

This Treaty shall be open for signature on the _____ day of 2001 by the States mentioned in paragraph 1 of Article 3

Article 233
Ratification

This Treaty and any amendments thereto shall be subject to ratification by signatory States in accordance with their respective constitutional procedures. Instruments of ratification shall be deposited with the Secretariat which shall transmit certified copies to the signatory States.

Article 234
Entry into Force

This Treaty shall enter into force on the deposit of the last instrument of ratification by the States mentioned in paragraph 1 of Article 3.

Article 235
Registration

This Treaty and any amendments thereto shall be registered with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations

Article 236
Amendments

1. This Treaty may be amended by the unanimous decision of the Parties.

2. An amendment shall enter into force one month after the date on which the last instrument of ratification is deposited with the Secretariat.

Article 237
Reservations

Reservations may be entered to this Treaty with the consent of the signatory States.

Article 238
Accession

1. After the entry into force of this Treaty a State or Territory of the Caribbean may, if Conference so determines, accede to this Treaty.

2. Accession shall be on such terms and conditions as Conference decides and shall take effect one month following the deposit of the instrument of accession with the Secretariat.

Article 239
Undertaking

The Member States undertake to elaborate a Protocol relating, *inter alia*, to:

(a) electronic commerce;
(b) government procurement
(c) treatment of goods produced in free zones and similar jurisdictions;
(d) free circulation of goods in the CSME, and
(e) rights contingent on establishment, provision of services and movement of capital in the Community.

Article 240
Saving

1. Decisions of competent Organs taken under this Treaty shall be subject to the relevant constitutional procedures of the Member States before creating legally binding rights and obligations for nationals of such States.

2. The Member States undertake to act expeditiously to give effect to decisions of competent Organs and Bodies in their municipal law.

3. COTED shall monitor and keep under review the implementation of the provisions of this Article and shall convene a review conference of Member States within five years from the entry into force of this Treaty.

IN WITNESS WHEREOF, the undersigned Heads of Government have appended their signatures to this Treaty.

ANNEX I

(Paragraph 5 of Article 100)

DEFINITION OF DOMESTIC INDUSTRY

1. For the purposes of this Protocol, the term "domestic industry" shall, except as provided in paragraph 4, be interpreted as referring to the domestic producers as a whole f the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products, except that when producers are related to the exporters or importers or are themselves importers of the allegedly subsidised or dumped product or a like product from other countries, the term "domestic industry" may be interpreted as referring to the rest of the producers.

2. In exceptional circumstances, the territory of a Member State may, for the production in question, be divided into two or more competitive markets and the producers within each market may be regarded as a separate industry if (a) the producers within such market sell all or almost all of their production of the product in question in that market, and (b) the demand in that market is not to any substantial degree supplied by producers of the product in question located elsewhere in the territory. In such circumstances, injury may be found to exist even where a major portion of the total domestic industry is not injured, provided there is a concentration of subsidised for dumped imports into such an isolated market and provided further that the subsidised imports are causing injury to the producers of all or almost all of the production within such market.

3. When the domestic industry has been interpreted as referring to the producers in a certain area, i.e., a market as defined in paragraph 2, countervailing duties shall be levied only on the products in question consigned for final consumption to that area. When the constitutional law of the importing Member State does not permit the levying of countervailing or anti-dumping duties on such a basis, the importing Member State may levy the relevant duties without limitation only of (a) the exporters shall have been given an opportunity to cease exporting at subsidised or dumped prices to the area concerned or otherwise give assurances pursuant to Article 116 or 133 and adequate assurances in this regard have not been promptly given, and (b) such duties cannot be levied only on products of specific producers which supply the area in question.

4. Whenever an investigation is being undertaken by the Community on behalf of the domestic industry which has alleged injury from extra-regional imports, the domestic industry in the CSME shall be taken to be the industry referred to in paragraphs 1 and 2 consistent with the provisions of paragraph 8(a) of Article XXIV of GATT 1994.

ANNEX II

(Paragraph 3 of Article 98)

CONSULTATIONS

1. As soon as possible after an application for an investigation is accepted and in any event before the initiation of any investigation, a Member State whose products may be subject to such investigation, shall be invited for consultations with the aim of clarifying the situation and arriving at a mutually agreed solution.

2. Furthermore, throughout the period of investigation, a Member State whose products are the subject of the investigation shall be afforded a reasonable opportunity to continue consultations, with a view to clarifying the factual situation and to arriving at a mutually agreed solution.

3. Without prejudice to the obligation to afford reasonable opportunity for consultations, these provisions regarding consultations are not intended to prevent the authorities of a Member State from proceeding expeditiously with regard to initiating the investigation, reaching preliminary or final determinations, whether affirmative or negative, or from applying provisional or final measures, in accordance with the provisions of this Agreement.

4. The Member State which intends to initiate any investigation or is conducting such an investigation shall permit, upon request, the Member State whose products are subject to such investigation access to non-confidential evidence, including any non-confidential summary of confidential data being used for initiating or conducting the investigation.

ANNEX III(a)

ILLUSTRATIVE LIST OF INFORMATION REQUIRED BY ARTICLES 100, 106 and 112

(i) The identity of the applicant and a description of the volume and value of the domestic production of the like product by the applicant. Where a written application is made on behalf of the domestic industry, the application shall identify the industry on behalf of which the application is made by a list of all known domestic producers of the like product (or associations of domestic producers of the like product) and, to the extent possible, a description of the volume and value of domestic production of the like product accounted for by such producers;

(ii) a complete description of the allegedly subsidised product, the names of the country or countries of origin or export in question, the identity of each known exporter or foreign producer and a list of known persons importing the product in question;

(iii) evidence with regard to the existence, amount and nature of the subsidy in question;

(iv) evidence that alleged injury to a domestic industry is caused by subsidised imports through the effects of the subsidies; this evidence includes information on the evolution of the volume of the allegedly subsidised imports, the effect of these imports on prices of the like product in the domestic market and the consequent impact of the imports on domestic industry, as demonstrated by relevant factors and indices having a bearing on the state of the domestic industry.

ANNEX III (b)

ILLUSTRATIVE LIST OF INFORMATION REQUIRED BY ARTICLE 129

(i) The identity of the applicant and a description of the volume and value of the domestic production of the like product by the applicant. Where a written application is made on behalf of the domestic industry, the application shall identify the industry on behalf of which the application is made by a list of all known domestic producers of the like product (or associations of domestic producers of the like product) and, to the extent possible, a description of the volume and value of domestic production of the like product accounted for by such producers;

(ii) A complete description of the allegedly dumped product, the names of the country or countries of origin or export in question, the identity of each known exporter or foreign producer and a list of known persons importing the product in question;

(iii) Information on prices at which the product in question is sold when destined for consumption in the domestic markets of the country or countries of origin or export (or, where appropriate, information on the prices at which the product is sold from the country or countries of origin or export to a third country or countries, or on the constructed value of the product) and information on export prices or, where appropriate, on the prices at which the product is first resold to an independent buyer in the territory of the importing Member State;

(iv) Information on the evolution of the volume of the allegedly dumped imports, the effect of these imports on prices of the like product in the domestic market and the consequent impact of the imports on the domestic industry, as demonstrated by relevant factors and indices having a bearing on the state of the domestic industry, such as those referred to in Article 128.

ANNEX IV

(Paragraph 2 of Article 117)

PRODUCT COVERAGE 1

This Protocol shall cover the following products:

(i) HS Chapters 1-24 less fish and fish products, forestry and forest products plus*;

(ii)	HS Code	2905.43	(mannitol)
	HS Code	2905.44	(sorbitol)
	HS Heading	33.01	(essential oils)
	HS Headings	35.01 to 35.05	(albuminoidal substances, modified starches, glues)
	HS Code 3809.10	(fishing agents)	
	HS Code 3823.60	(sorbitol n.e.p.)	
	HS Headings	41.01 to 41.03	(hides and skins)
	HS Headings	43.01	(raw furskins)
	HS Headings	50.01 to 50.03	(raw silk and silk waste)
	HS Headings	51.01 to 51.03	(wool and animal hair)
	HS Headings	52.01 to 52.03	(raw cotton, waste and cotton carded or combed)
	HS Heading	53.01	(raw flax)
	HS Heading	53.02	(raw hemp)

* The product descriptions in round brackets are not necessarily exhaustive.

ANNEX V

OATH OF OFFICE OF JUDGES OF THE COURT

I _____ do hereby swear (or solemnly affirm) that I will faithfully exercise the office of Commissioner of the Competition Commission without fear or favour, affection or ill-will.

(so help me God (to be omitted in affirmation)).

SCHEDULE I

LIST OF CONDITIONS TO BE COMPLIED WITH AS PROVIDED UNDER ARTICLE 84 OF THE TREATY AND THE RULES REGARDING COMMUNITY ORIGIN

This Schedule consists of -

(a) A List comprising goods referred to in sub-paragraph (b) (ii) of paragraph 1 of Article 84 of the Treaty (hereinafter referred to as "the List");

(b) the Rules regarding Community Origin.

EXPLANATORY NOTE

The application of the List is governed by the following general notes:

(i) In this List, where a tariff heading number is preceded by the word "ex", only those products of that heading specified in the column headed "Product" are referred to. Descriptions of finished products and of materials are to be interpreted according to the relative Section and Chapter Notes of the Harmonised Commodity Description and Coding System (HS)and the General Rules for the Interpretation of the Harmonised System.

(ii) Four figure references of the type "04.02","17.04", etc. are references to the headings of the Harmonised Commodity Description and Coding System (HS).

(iii) Where the condition to be complied with for any product does not prescribe the use of regional materials, it shall always be understood that materials imported from outside the Community or of undetermined origin may be used. If such materials are used in a more advanced state of processing than that specified in the List, the finished product shall be ineligible for Community treatment.

(a) THE LIST

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
02.01	Meat of bovine animals, fresh or chilled	Produced from bovine animals of 01.02 imported from outside the Common Market, provided that the weight of each animal did not exceed 270 kg on first importation into the Common Market	Produced from bovine animals of 01.02 imported from outside the Common Market, provided that the weight of each animal did not exceed 270 kg on first importation into the Common Market

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
02.02	Meat of bovine animals, frozen	Produced from bovine animals of 01.02 imported from outside the Common Market, provided that the weight of each animal did not exceed 270 kg on first importation into the Common Market	Produced from bovine animals of 01.02 imported from outside the Common Market, provided that the weight of each animal did not exceed 270 kg on first importation into the Common Market
02.03	Meat of swine, fresh, chilled or frozen	Wholly produced	Wholly produced
02.04	Meat of sheep or goats, fresh, chilled or frozen	Wholly produced	Wholly produced
02.05	Meat of horses, asses, mules or hinnies, fresh, chilled or frozen	Wholly produced	Wholly produced
02.06	Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled or frozen	Wholly produced	Wholly produced
02.07	Meat and edible offal, of the poultry of heading No. 01.05, fresh, chilled or frozen	Wholly produced	Wholly produced
02.08	Other meat and edible meat offal, fresh, chilled or frozen	Wholly produced	Wholly produced
02.09	Pig fat, free of lean meat, and poultry fat, not rendered or otherwise extracted, fresh, chilled, frozen, salted, in brine, dried or smoked	Wholly produced	Wholly Produced
02.10	Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal	Wholly produced	Wholly produced
Chap. 3	Fish and crustaceans, molluscs and other aquatic invertebrates	Wholly produced	Wholly produced

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex.04.01	UHT milk; pasteurised milk	Produced from regional materials of 04.01 or from materials of 04.02 provided that the value of extra-regional materials used does not exceed 65 per cent of the export price of the finished product	Produced from regional materials of 04.01 or from materials of 04.02 provided that the value of extra-regional materials used does not exceed 70 per cent of the export price of the finished product
04.02	Milk and cream, concentrated or containing added sugar or other sweetening matter	Produced from regional materials of 04.01 or from materials of 04.02 provided that the value of extra-regional materials used does not exceed 65 per cent of the export price of the finished product	Produced from regional materials of 04.01 or from materials of 04.02 provided that the value of extra-regional materials used does not exceed 70 per cent of the export price of the finished product
ex 04.06	Cheese	Production in which the value of extra-regional materials used does not exceed 65 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 70 per cent of the export price of the finished product
05.02	Pigs', hogs' or boars' bristles and hair; badger hair and other brush making hair; waste of such bristles or hair	Wholly produced	Wholly produced
05.03	Horsehair and horsehair waste, whether or not put up as a layer with or without supporting material	Wholly produced	Wholly produced
05.04	Guts, bladders and stomachs of animals (other than fish), whole and pieces thereof, fresh, chilled, frozen, salted, in brine, dried or smoked	Wholly produced	Wholly produced

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
05.05	Skins and other parts of birds, with their feathers or down, feathers and parts of feathers (whether or not with trimmed edges) and down, not further worked than cleaned, disinfected or treated for preservation; powder and waste of feathers or parts of feathers	Wholly produced	Wholly produced
05.06	Bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinised; powder and waste of these products	Wholly produced	Wholly produced
05.07	Ivory, tortoise-shell, whalebone and whalebone hair, horns, antlers, hooves, nails, claws and beaks, unworked or simply prepared but not cut to shape; powder and waste of these products	Wholly produced	Wholly produced
05.10	Ambergris, castoreum, civet and musk; cantharides; bile, whether or not dried; glands and other animal products used in the preparation of pharmaceutical products, fresh, chilled, frozen or otherwise provisionally preserved	Wholly produced	Wholly produced
05.11	Animal products not elsewhere specified or included; dead animals of Chapter 1 or 3, unfit for human consumption	Wholly produced	Wholly produced
ex 06.03	Bouquets, floral baskets, wreaths and similar articles	Produced from regional materials of Chapter 6	Produced from regional materials of Chapter 6
ex 06.04	Bouquets, floral baskets, wreaths and similar articles	Produced from regional materials of Chapter 6	Produced from regional materials of Chapter 6
07.10	Vegetables (uncooked or cooked by steaming or boiling in water), frozen	Wholly produced	Wholly produced
07.11	Vegetables provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption	Wholly produced	Wholly produced
07.12	Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared	Wholly produced	Wholly produced

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
07.13	Dried leguminous vegetables, shelled, whether or not skinned or split	Wholly produced	Wholly produced
ex 08.11	Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen, not containing added sugar or other sweetening matter	Wholly produced	Wholly produced
ex 08.11	Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen, containing added sugar or other sweetening matter	Produced from regional materials of Chapter 8 and 17.01	Produced from regional materials of Chapter 8 and 17.01
08.12	Fruit and nuts, provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption	Wholly produced	Wholly produced
08.13	Fruit, dried, other than that of headings Nos. 08.01 to 08.06; mixtures of nuts or dried fruits of this Chapter	Wholly produced	Wholly produced
08.14	Peel of citrus fruit or melons (including watermelons), fresh, frozen, dried or provisionally preserved in brine, in sulphur water or in other preservative solutions	Wholly produced	Wholly produced
ex 09.02	Herbal tea	Production in which the value of extra-regional materials used does not exceed 40 per cent of all materials used	Production in which the value of extra-regional materials used does not exceed 40 per cent of all materials used
ex 09.10	Cummin powder and ground rosemary	Wholly produced	Wholly produced
ex 09.10	Mixed spices (including curry)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 11.02	Cereal flours other than of wheat	Wholly produced	Wholly produced

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 11.03	Cereal groats, meal and pellets (other than cornmeal)	Wholly produced	Wholly produced
11.04	Cereal grains otherwise worked (for example, hulled, rolled, flaked, pearled, sliced or kibbled), except rice of heading No. 10.06; germ of cereals, whole, rolled, flaked or ground	Wholly produced	Wholly produced
11.05	Flour, meal, powder flakes, granules and pellets, of potatoes	Wholly produced	Wholly produced
11.06	Flour, meal and powder of the dried leguminous vegetables of heading No. 07.13, of sago or of roots or tubers of heading No. 07.14; flour, meal and powder of the products of Chapter 8	Wholly produced	Wholly produced
11.07	Malt, whether or not roasted	Wholly produced	Wholly produced
11.08	Starches; inulin	Wholly produced	Wholly produced
11.09	Wheat gluten, whether or not dried	Wholly produced	Wholly produced
12.01	Soya beans, whether or not broken	Wholly produced	Wholly produced
12.02	Ground-nuts, not roasted or otherwise cooked, whether or not shelled or broken	Wholly produced	Wholly produced
12.03	Copra	Wholly produced	Wholly produced
12.04	Linseed, whether or not broken	Wholly produced	Wholly produced
12.05	Rape or colza seeds, whether or not broken	Wholly produced	Wholly produced
12.06	Sunflower seeds, whether or not broken	Wholly produced	Wholly produced
12.07	Other oil seeds and oleaginous fruits, whether or not broken	Wholly produced	Wholly produced
ex 12.08	Flours and meals of oil seeds or oleaginous fruits, other than those of mustard or of soya beans	Wholly produced	Wholly produced

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
12.12	Locust beans, seaweeds and other algae, sugar beet and sugar cane, fresh, chilled, frozen or dried, whether or not ground; fruit stones and kernels and other vegetable products (including unroasted chicory roots of the variety Cichorium-intybus sativum) of a kind used primarily for human consumption, not elsewhere specified or included	Wholly produced	Wholly produced
12.13	Cereal straw and husks, unprepared, whether or not chopped, ground, pressed or in the form of pellets	Wholly produced	Wholly produced
12.14	Swedes, mangolds, fodder roots, hay, lucerne (alfalfa), clover, sainfoin, forage kale, lupines, vetches and similar forage products, whether of not in the form of pellets	Wholly produced	Wholly produced
Chap. 13	Lacs; gums, resins and other vegetable saps and extracts	Wholly produced	Wholly produced
14.01	Vegetable materials of a kind used primarily for plaiting (for example, bamboos, rattans, reeds, rushes, osier, raffia, cleaned, bleached or dyed cereal straw, and lime bark)	Wholly produced	Wholly produced
14.02	Vegetable materials of a kind used primarily as stuffing or as padding (for example, kapok, vegetable hair and eel-grass), whether or not put up as a layer with or without supporting material	Wholly produced	Wholly produced
14.03	Vegetable materials of a kind used primarily in brooms or in brushes (for example, broomcorn, piassava, couch-grass and istle), whether or not in hanks or bundles	Wholly produced	Wholly produced
ex 14.04	Vegetable products not elsewhere specified or included (excluding cotton linters)	Wholly produced	Wholly produced
ex 15.01	Pig fat (including lard) and poultry fat, other than that of heading No. 02.09 or 15.03. (excluding bone fat and fats obtained from waste)	Produced from regional materials of 02.09	Produced from regional materials of 02.09
15.02	Fats of bovine animals, sheep or goats, other than those of heading No. 15.03	Produced from regional materials of 01.02 or 01.04	Produced from regional materials of 01.02 or 01.04

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
15.08	Ground-nut oil and its fractions, whether of not refined, but not chemically modified	Produced from regional materials of 12.02	Produced from regional materials of 12.02
15.09	Olive oil and its fractions, whether or not refined, but not chemically modified	Produced from regional materials of Chapters 7 and 12	Produced from regional materials of Chapters 7 and 12
15.10	Other oils and their fractions, obtained solely from olives, whether or not refined, but not chemically modified, including blends of these oils or fractions with oils or fractions of heading No. 15.09	Produced from regional materials of Chapters 7 and 12	Produced from regional materials of Chapters 7 and 12
ex 15.11	Palm oil and its fractions, not refined, but not chemically modified	Produced from regional materials of 12.07	Produced from regional materials of 12.07
ex 15.11	Palm oil and its fractions, refined, but not chemically modified	Produced from regional materials of 12.07	Produced from materials of 15.11
15.12	Sunflower-seed, safflower or cotton-seed oil and fractions thereof, whether or not refined, but not chemically modified	Produced from regional materials of 12.06 and 12.07	Produced from regional materials of 12.06 and 12.07
15.13	Coconut (copra), palm kernel or babassu oil and fractions thereof, whether or not refined, but not chemically modified	Produced from regional materials of Chapter 8, 12.03 and 12.07	Produced from regional materials of Chapter 8, 12.03 and 12.07
15.14	Rape, colza or mustard oil and fractions thereof, whether or not refined, but not chemically modified	Produced from regional materials of 12.05 and 12.07	Produced from regional materials of 12.05 and 12.07
15.15	Other fixed vegetable fats and oils (including jojoba oil) and their fractions, whether or not refined, but not chemically modified	Produced from regional materials of Chapters 7, 8 and 12	Produced from regional materials of Chapters 7, 8 and 12
15.16	Animal or vegetable fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not refined, but not further prepared	Produced from regional materials of Chapters 7 and 12	Produced from regional materials of Chapters 7 and 12

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 16.01	Sausages and similar products, of pork	Produced from regional materials of 02.03 or 02.06	Produced from regional materials of 02.03 or 02.06
ex 16.02	Hams and shoulders	Produced from regional materials of 02.03	Produced from regional materials of 02.03
ex 17.01	Cane or beet sugar, not containing added flavouring or colouring matter, in solid form	Wholly produced	Wholly produced
ex 17.02	Maltose and fructose, in solid form	Produced by chemical transformation	Produced by chemical transformation
ex 17.03	Molasses resulting from the extraction or refining of sugar, (excluding flavoured or coloured molasses)	Wholly produced	Wholly produced
17.04	Sugar confectionery (including white chocolate) not containing cocoa	Produced from regional materials of 17.01,	Produced from regional materials of 17.01
18.01	Cocoa beans, whole or broken, raw or roasted	Wholly produced	Wholly produced
18.02	Cocoa shells, husks, skins and other cocoa waste	Wholly produced	Wholly produced
18.03	Cocoa paste, whether or not defatted	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product
18.04	Cocoa butter, fat and oil	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
18.05	Cocoa powder, not containing added sugar or other sweetening matter	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product
ex 18.06	Chocolate confectionery	Produced from regional materials of 17.01, and where extra-regional materials are used the value of these materials does not exceed 50 per cent of the export price of the finished product	Produced from regional materials of 17.01, and where extra-regional materials are used the value of these materials does not exceed 60 per cent of the export price of the finished product
ex 19.01	Food preparations of malt extract	Produced from malt extract	Produced from malt extract
20.01	Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid	Produced from regional materials of Chapters 7 and 8 and 17.01	Produced from regional materials of Chapters 7 and 8 and 17.01
20.02	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid	Production in which the value of extra-regional materials used does not exceed 50 per cent of export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of export price of the finished product
20.03	Mushrooms and truffles, prepared or preserved otherwise than by vinegar or acetic acid	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 20.04	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen (excluding sweet corn and homogenised vegetables)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
20.05	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading No. 20.06	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 20.06	Vegetables preserved by sugar, (drained, glacé or crystallised)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 20.06	Maraschino and glacé cherries	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product
ex 20.06	Other fruit, nuts, fruit-peel and other parts of plants, preserved by sugar (drained, glacé or crystallised) (excluding maraschino and glacé cherries)	Produced from regional materials of Chapter 8 and 17.01	Produced from regional materials of Chapter 8 and 17.01
20.07	Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, being cooked preparations, whether or not containing added sugar or other sweetening matter	Produced from regional materials of Chapter 8 and 17.01	Produced from regional materials of Chapter 8 and 17.01
ex 20.08	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included (excluding peanut butter, ground-nuts and cashew nuts)	Produced from regional materials of Chapters 7 and 8, 12.01,12.02,12.03 12.05 to 12.07 and 17.01	Produced from regional materials of Chapters 7 and 8, 12.01,12.02 12.03, 12.05 to 12.07 and 17.01
ex 20.08	Peanuts (ground nuts), prepared or preserved	Produced from regioal materials of Chapter 8, 12.02 and 17.01	Produced from regional materials of Chapter 8,12.02 and 17.01

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
20.09	Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	Produced from regional materials of Chapters 7 and 8 and 17.01	Produced from regional materials of Chapters 7 and 8 and 17.01
ex 21.01	Extracts, essences and concentrates, of coffee, and preparations with a basis of coffee	Produced from regional materials of 09.01	Produced from regional materials of 09.01
ex 21.02	Dried yeast	Produced from seed yeast	Produced from seed yeast
ex 21.02	Dead unicellular algae	Wholly produced	Wholly produced
ex 21.06	Frozen mousse	Produced from materials of 21.06 the value of which does not exceed 3 per cent of the export price of the finished product	Produced from materials of 21.06 the value of which does not exceed 3 per cent of the export price of the finished product
ex 22.02	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading No. 20.09 (excluding milk based beverages)	Produced from regional materials of Chapters 7 and 8 and 17.01	Produced from regional materials of Chapters 7 and 8 and 17.01
22.07	Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol or higher; ethyl alcohol and other spirits, denatured, of any strength	Produced from materials not included in 22.07 or 22.08	Produced from materials not included in 22.07 or 22.08
ex 22.08	Spirits	Produced from materials not included in 22.07	Produced from materials not included in 22.07
ex 22.08	Liqueurs and other spirituous beverages	Produced from regional materials of 22.07	Produced from regional materials of 22.07
ex 22.09	Spirit vinegar	Produced from regional materials of Chapter 17	Produced from regional materials of Chapter 17

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 23.09	Prepared complete animal feeds	Produced from materials of 23.09 the value of which does not exceed 5 per cent of the export price of the finished product	Produced from materials of 23.09 the value of which does not exceed 5 per cent of the export price of the finished product
ex 25.01	Refined salt	Produced from rock salt or sea salt	Produced from rock salt or sea salt
25.15	Marble, travertine, ecaussine and other calcareous monumental or building stone of an apparent specific gravity of 2.5 or more, and alabaster, whether or not roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape	Produced by sawing	Produced by sawing
ex 27.10	Lubricating oils	Production in which the value of extra-regional materials used does not exceed 65 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 70 per cent of the export price of the finished product
28.10	Oxides of boron; boric acids	Produced by chemical transformation	Produced by chemical transformation
ex 28.11	Other inorganic acids and other inorganic oxygen compounds of non-metals, (excluding water and sulphur dioxide)	Produced by chemical transformation	Produced by chemical transformation
28.12	Halides and halide oxides of non-metals	Produced by chemical transformation	Produced by chemical transformation
28.13	Sulphides of non-metals; commercial phosphorus trisulphide	Produced by chemical transformation	Produced by chemical transformation
28.18	Artificial corundum whether or not chemically defined; aluminium oxide; aluminium hydroxide	Produced by chemical transformation	Produced by chemical transformation
ex 28.27	Bromides and bromide oxides; iodides and iodide oxides	Produced by chemical transformation	Produced by chemical transformation

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 28.28	Hypobromites	Produced by chemical transformation	Produced by chemical transformation
28.29	Chlorates and perchlorates; bromates and perbromates; iodates and periodates	Produced by chemical transformation	Produced by chemical transformation
28.30	Sulphides; polysulphides	Produced by chemical transformation	Produced by chemical transformation
28.32	Sulphites; thiosulphates	Produced by chemical transformation	Produced by chemical transformation
ex 28.33	Peroxosulphates (persulphates)	Produced by chemical transformation	Produced by chemical transformation
28.34	Nitrites; nitrates	Produced by chemical transformation from materials of 28.43	Produced by chemical transformation from materials of 28.43
28.35	Phosphinates (hypophosphites), phosphonates (phosphites), phosphates and polyphosphates	Produced by chemical transformation	Produced by chemical transformation
28.36	Carbonates; peroxocarbonates (percarbonates); commercial ammonium carbonate containing ammonium carbamate	Produced by chemical transformation	Produced by chemical transformation
28.37	Cyanides, cyanide oxides and complex cyanides	Produced by chemical transformation	Produced by chemical transformation
28.39	Silicates; commercial alkali metal silicates	Produced by chemical transformation	Produced by chemical transformation
28.40	Borates; peroxoborates (perborates)	Produced by chemical transformation	Produced by chemical transformation
28.41	Salts of oxometallic or peroxometallic acids	Produced by chemical transformation	Produced by chemical transformation
28.42	Other salts of inorganic acids or peroxoacids, excluding azides	Produced by chemical transformation	Produced by chemical transformation

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
28.43	Colloidal precious metals; inorganic or organic compounds of precious metals, whether or not chemically defined; amalgams of precious metals	Produced from materials not included in 28.43 or by chemical transformation from materials of 28.43	Produced from materials not included in 28.43 or by chemical transformation from materials of 28.43
28.50	Hydrides, nitrides, azides, silicides and borides, whether or not chemically defined, other than compounds which are also carbides of heading No. 28.49	Produced by chemical transformation	Produced by chemical transformation
ex 28.51	Other inorganic compounds (including distilled or conductivity water and water of similar purity); amalgams, other than amalgams of precious metals	Produced from materials not included in 28.51 or by chemical transformation from materials of 28.51	Produced from materials not included in 28.51 or by chemical transformation from materials of 28.51
29.01	Acyclic hydrocarbons	Produced by chemical transformation	Produced by chemical transformation
29.02	Cyclic hydrocarbons	Produced by chemical transformation	Produced by chemical transformation
29.03	Halogenated derivatives of hydrocarbons	Produced by chemical transformation	Produced by chemical transformation
29.05	Acyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives	Produced by chemical transformation	Produced by chemical transformation
29.06	Cyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives	Produced by chemical transformation	Produced by chemical transformation
29.07	Phenols; phenol-alcohols	Produced by chemical transformation	Produced by chemical transformation
29.09	Ethers, ether-alcohols, ether-phenols, ether-alcohol-phenols, alcohol peroxides,ether peroxides, ketone peroxides (whether or not chemically defined), and their halogenated, sulphonated, nitrated or nitrosated derivatives	Produced by chemical transformation	Produced by chemical transformation

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
29.10	Epoxides, epoxyalcohols, epoxyphenols and epoxyethers, with a three-membered ring, and their halogenated, sulphonated, nitrated or nitrosated derivatives	Produced by chemical transformation	Produced by chemical transformation
29.11	Acetals and hemiacetals, whether or not with other oxygen function, and their halogenated, sulphonated, nitrated or nitrosated derivatives	Produced by chemical transformation	Produced by chemical transformation
29.12	Aldehydes, whether or not with other oxygen function; cyclic polymers of aldehydes; paraformaldehyde	Produced by chemical transformation	Produced by chemical transformation
29.15	Saturated acyclic monocarboxylic acids and their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives	Produced by chemical transformation	Produced by chemical transformation
29.16	Unsaturated acyclic monocarboxylic acids, cyclic monocarboxylic acids, their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives	Produced by chemical transformation	Produced by chemical transformation
29.17	Polycarboxylic acids, their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives	Produced by chemical transformation	Produced by chemical transformation
29.18	Carboxylic acids with additional oxygen function and their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives	Produced by chemical transformation	Produced by chemical transformation
29.19	Phosphoric esters and their salts, including lactophosphates; their halogenated, sulphonated, nitrated or nitrosated derivatives	Produced by chemical transformation	Produced by chemical transformation
29.20	Esters of other inorganic acids (excluding esters of hydrogen halides) and their salts; their halogenated, sulphonated, nitrated or nitrosated derivatives	Produced by chemical transformation	Produced by chemical transformation

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
29.23	Quaternary ammonium salts and hydroxides; lecithins and other phosphoaminolipids	Produced by chemical transformation	Produced by chemical transformation
29.25	Carboxyimide-function compounds (including saccharin and its salts) and imine-function compounds	Produced by chemical transformation	Produced by chemical transformation
29.26	Nitrile-function compounds	Produced by chemical transformation	Produced by chemical transformation
29.27	Diazo-, azo- or azoxy-compounds	Produced by chemical transformation	Produced by chemical transformation
29.28	Organic derivatives of hydrazine or of hydroxylamine	Produced by chemical transformation	Produced by chemical transformation
29.30	Organo-sulphur compounds	Produced by chemical transformation	Produced by chemical transformation
29.31	Other organo-inorganic compounds	Produced by chemical transformation	Produced by chemical transformation
29.32	Heterocyclic compounds with oxygen hetero-atom(s) only	Produced by chemical transformation	Produced by chemical transformation
29.33	Heterocyclic compounds with nitrogen hetero-atom(s) only	Produced by chemical transformation	Produced by chemical transformation
29.34	Nucleic acids and their salts; other heterocyclic compounds	Produced by chemical transformation	Produced by chemical transformation
29.35	Sulphonamides	Produced by chemical transformation	Produced by chemical transformation
29.36	Provitamins and vitamins, natural or reproduced by synthesis (including natural concentrates), derivatives thereof used primarily as vitamins, and intermixtures of the foregoing, whether or not in any solvent	Produced by chemical transformation	Produced by chemical transformation
29.37	Hormones, natural or reproduced by synthesis; derivatives thereof, used primarily as hormones; other steroids used primarily as hormones	Produced by chemical transformation	Produced by chemical transformation

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
29.38	Glycosides, natural or reproduced by synthesis, and their salts, ethers, esters and other derivatives	Produced by chemical transformation	Produced by chemical transformation
29.39	Vegetable alkaloids, natural or reproduced by synthesis, and their salts, ethers, esters and other derivatives	Produced by chemical transformation	Produced by chemical transformation
29.40	Sugars, chemically pure, other than sucrose, lactose, maltose, glucose and fructose; sugar ethers and sugar esters, and their salts, other than products of heading No. 29.37, 29.38 or 29.39	Produced by chemical transformation	Produced by chemical transformation
29.41	Antibiotics	Produced by chemical transformation	Produced by chemical transformation
30.02	Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes; vaccines, toxins, cultures of micro-organisms (excluding yeasts) and similar products	Produced from seed for microbial cultures or from similar products of 30.02 or produced from materials not included in 30.02	Produced from seed for microbial cultures or from similar products of 30.02 or produced from materials not included in 30.02
ex 31.02	Ammonium nitrate or sodium nitrate, pure	Produced by chemical transformation	Produced by chemical transformation
ex 35.01	Casein derivatives; casein glues	Produced from casein of 35.01 or from materials not included in 35.01	Produced from casein of 35.01 or from materials not included in 35.01
ex 35.02	Albuminates and other albumin derivatives	Produced from albumins of 35.02 or from materials not included in 35.02	Produced from albumins of 35.02 or from materials not included in 35.02
ex 35.03	Gelatin derivatives	Produced from gelatin of 35.03 or from materials not included in 35.03	Produced from gelatin of 35.03 or from materials not included in 35.03

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 35.05	Glues based on starches or on dextrins	Produced from dextrins or other modified starches of 35.05 or from materials not included in 35.05	Produced from dextrins or other modified starches of 35.05 or from materials not included in 35.05
ex 36.05	Matches, other than pyrotechnic articles of 36.04, with wooden splints	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
37.01	Photographic plates and film in the flat, sensitised, unexposed, of any material other than paper, paperboard or textiles; instant print film in the flat, sensitised, unexposed, whether or not in packs	Produced from materials not included in 37.02	Produced from materials not included in 37.02
37.02	Photographic film in rolls, sensitised, unexposed, of any material other than paper, paperboard or textiles; instant print film in rolls, sensitised, unexposed	Produced from materials not included in 37.01	Produced from materials not included in 37.01
38.05	Gum, wood or sulphate turpentine and other terpenic oils produced by the distillation or other treatment of coniferous woods; crude dipentene; sulphite turpentine and other crude para-cymene; pine oil containing alpha-terpineol as the main constituent	Produced from gum, wood or sulphate turpentine and other terpenic oils of 38.05 or from materials not included in 38.05	Produced from gum, wood or sulphate turpentine and other terpenic oils of 38.05 or from materials not included in 38.05
ex 38.06	Derivatives of rosin and resin acids	Produced by chemical transformation or emulsification	Produced by chemical transformation or emulsification
ex 38.06	Rosin spirit and rosin oils	Produced from rosin or resin acids of 38.06 or from materials not included in 38.06	Produced from rosin or resin acids of 38.06 or from materials not included in 38.06
ex 38.23	Industrial monocarboxylic fatty acids; acid oils from refining; industrial fatty alcohols (excluding industrial fatty alcohols which have a waxy character)	Produced from regional materials of Chapter 15	Produced from regional materials of Chapter 15

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
39.01	Polymers of ethylene, in primary forms	Produced by chemical trans-formation	Produced by chemical trans-formation
39.02	Polymers of propylene or of other olefins, in primary forms	Produced by chemical trans-formation	Produced by chemical trans-formation
39.03	Polymers of styrene, in primary forms	Produced by chemical trans-formation	Produced by chemical trans-formation
39.04	Polymers of vinyl chloride or of other halogenated olefins, in primary forms	Produced by chemical trans-formation	Produced by chemical trans-formation
39.05	Polymers of vinyl acetate or of other vinyl esters, in primary forms; other vinyl polymers in primary forms	Produced by chemical trans-formation	Produced by chemical trans-formation
39.06	Acrylic polymers in primary forms	Produced by chemical trans-formation	Produced by chemical trans-formation
39.07	Polyacetals, other polyethers and epoxide resins, in primary forms; polycarbonates, alkyd resins,polyallyl esters and other polyesters, in primary forms	Produced by chemical trans-formation	Produced by chemical trans-formation
39.08	Polyamides in primary forms	Produced by chemical trans-formation	Produced by chemical trans-formation
39.09	Amino-resins, phenolic resins and polyurethanes, in primary forms	Produced by chemical trans-formation	Produced by chemical trans-formation
39.10	Silicones in primary forms	Produced by chemical trans-formation	Produced by chemical trans-formation
39.11	Petroleum resins, coumarone-indene resins, polyterpenes, polysulphides, polysulphones and other products specified in Note 3 to this Chapter, not elsewhere specified or included, in primary forms	Produced by chemical trans-formation	Produced by chemical trans-formation

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
39.15	Waste, parings and scrap, of plastics	Produced from blocks, lumps, powders, flakes, granules, pastes, liquids, putties and similar bulk forms of plastics, provided that extra-regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product	Produced from blocks, lumps, powders, flakes granules, pastes, liquids putties and similar bulk forms of plastics, provided that extra-regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product
39.16	Monofilament of which any cross-sectional dimension exceeds 1 mm, rods, sticks and profile shapes, whether or not surface-worked but not otherwise worked, of plastics	Produced from blocks, lumps, powders, flakes, granules, liquids pastes, putties and similar bulk forms of plastics, provided that extra-regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product	Produced from blocks, lumps, powders, flakes granules, liquids,pastes, putties and similar bulk forms of plastics, provided that extra-regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product
39.17	Tubes, pipes and hoses, and fittings therefor (for example, joints, elbows, flanges), of plastics	Produced from blocks, lumps, powders, flakes, granules, pastes, liquids, putties and similar bulk forms of plastics, provided that extra-regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product	Produced from blocks, lumps powders, flakes granules, pastes, liquids putties and similar bulk forms of plastics, provided that extra-regional fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
39.18	**Floor coverings of plastics,** whether or not self-adhesive, in rolls or in the form of tiles; wall or ceiling coverings of plastics, as defined in Note 9 to this Chapter	**Produced from** blocks, lumps, powders, flakes, granules, pastes, liquids, putties and similar bulk forms of plastics, provided that extra-regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product	**Produced from** blocks, lumps, powders, flakes granules, pastes, liquids putties and similar bulk forms of plastics, provided that extra regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product
39.19	Self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls	Produced from blocks, lumps, powders, flakes, granules, pastes, liquids, putties and similar bulk forms of plastics, provided that extra-region-al parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product	Produced from blocks. lumps, powders, flakes granules, pastes, liquids putties and similar bulk forms of plastic, provided that extra regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of of the finished product
39.20	Other plates, sheets, film, foil and strip, of plastics, non-cellular and not reinforced, laminated, supported or similarly combined with other materials	Produced from blocks, lumps, powders, flakes, granules, pastes, liquids, putties and similar bulk forms of plastics, provided that extra-regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product	Produced from blocks, lumps, powders, flakes granules, pastes, liquids putties and similar bulk forms of plastics, provided that extra-regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
39.21	Other plates, sheets, film, foil and strip, of plastics	Produced from blocks, lumps, powders, flakes, granules, pastes, liquids, putties and similar bulk forms of plastics, provided that extra-regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product	Produced from blocks, lumps, powders, flakes granules, pastes, liquids putties and similar bulk forms of plastics, provided that extra regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product
39.22	Baths, shower-baths, wash-basins, bidets, lavatory pans. seats and covers, flushing cisterns and similar sanitary ware, of plastics	Produced from blocks, lumps, powders, flakes, granules, pastes, liquids, putties and similar bulk forms of plastics, provided that extra-regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product	Produced from blocks, lumps, powders, flakes granules, pastes, liquids putties and similar bulk forms of plastics, provided that extra regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product
39.23	Articles for the conveyance or packing of goods, of plastics; stoppers, lids, caps and other closures, of plastics	Produced from blocks, lumps, powders, flakes, granules, pastes, liquids, putties and similar bulk forms of plastics, provided that extra-regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product	Produced from blocks, lumps, powders, flakes granules, pastes, liquids putties and similar bulk forms of plastics, provided that extra regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
39.24	Tableware, kitchenware, other household articles and toilet articles, of plastics	Produced from blocks, lumps,, powders, flakes, granules, pastes, liquids, putties of similar bulk forms of plastics, provided that extra-regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product	Produced from blocks, lumps, powders, flakes granules, pastes, liquids putties of similar bulk forms of plastics, provided that extra regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product
ex 39.25	Builders' ware of plastics, not elsewhere specified or included (excluding doors, windows and their frames, bath tub enclosures, fencing and panelling)	Produced from blocks, lumps, powders, flakes, granules, pastes, liquids, putties and similar bulk forms of plastics, provided fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product	Produced from blocks, lumps, powders, flakes granules, pastes, liquids, putties and similar bulk that extra-regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product
ex 39.26	Other articles of plastics and articles of other materials of headings Nos. 39.01 to 39.14 (excluding motor vehicle licence plates, signs, lettering, name-plates, badges and anti-static vinyl computer covers)	Produced from blocks, lumps, powders, flakes, granules, pastes, liquids, putties and similar bulk forms of plastics, provided that extra-regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product	Produced from blocks, lumps, powders, flakes granules, pastes, liquids putties and similar bulk forms of plastics, provided that extra-regional parts and fittings may be used if the value of such parts and fittings does not exceed 10 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 39.26	Anti-static vinyl computer covers	Produced from materials of 39.21	Produced from materials of 39.21
ex 40.06	Articles of unvulcanised rubber	Produced from unvulcanised rubber	Produced from unvulcanised rubber
ex 40.12	Retreaded or remoulded tyres	Produced by retreading or remoulding	Produced by retreading or remoulding
43.03	Articles of apparel, clothing accessories and other articles of furskin	Produced from materials not included in 43.03 and not being furskins assembled in plates, crosses or similar forms	Produced from materials not included in 43.03 and not being furskins assembled in plates,crosses or similar forms
44.01	Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms; wood in chips or particles; sawdust and wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
44.02	Wood charcoal (including shell or nut charcoal), whether or not agglomerated	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
44.03	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
44.04	Hoopwood; split poles; piles, pickets and stakes of wood, pointed but not sawn lengthwise; wooden sticks, roughly trimmed but not turned, bent or otherwise worked, suitable for the manufacture of walking-sticks, umbrellas,tool handles or the like; chipwood and the like	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
44.05	Wood wool; wood flour	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
44.06	Railway or tramway sleepers (cross-ties) of wood	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
44.07	Wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding 6 mm	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
44.08	Veneer sheets and sheets for plywood (whether or not spliced) and other wood sawn lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness not exceeding 6 mm	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
44.09	Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges or faces, whether or not planed sanded or finger jointed	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
44.10	Particle board and similar board of wood or other ligneous materials, whether or not agglomerated with resins or other organic binding substances	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
44.11	Fibreboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
44.12	Plywood, veneered panels and similar laminated wood	Produced from regional materials of Chapter 44	Produced from regional Materials of Chapter 44
44.13	Densified wood, in blocks, plates, strips or profile shapes	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
44.14	Wooden frames for paintings, photographs, mirrors or similar objects	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
44.15	Packing cases, boxes, crates, drums and similar packings, of wood; cable-drums of wood; pallets, box pallets and other load boards, of wood; pallet collars of wood	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
44.17	Tools, tool bodies, tool handles, broom or brush bodies and handles, of wood; boot or shoe lasts and trees, of wood	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
ex 44.18	Wooden doors of non-coniferous species (excluding mahogany)	Produced from regional non-coniferous species (excluding mahogany) of Chapter 44	Produced from regional non-coniferous species (excluding mahogany of Chapter 44
ex 44.18	Other builders' joinery and carpentry of wood, including cellular wood panels, assembled parquet panels, shingles and shakes	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
44.19	Tableware and kitchenware, of wood	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
44.20	Wood marquetry and inlaid wood; caskets and cases for jewellery or cutlery, and similar articles, of wood; statuettes and other ornaments, of wood; wooden articles of furniture not falling in Chapter 94	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
ex 44.21	Funeral caskets, of non-coniferous species (excluding mahogany)	Produced from regional non-coniferous species (excluding mahogany) of Chapter 44	Produced from regional non-coniferous species (excluding mahogany) of Chapter 44
ex 44.21	Other articles of wood	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
ex 46.01	Plaiting materials bound together in parallel strands or woven, in sheet form, whether or not being finished articles (for example, mats, matting, screens)	Produced from regional materials of 14.01	Produced from regional materials of 14.01
46.02	Basketwork, wickerwork and other articles, made directly to shape from plaiting materials or made up from goods of heading No. 46.01; articles of loofah	Produced from regional materials of 14.01	Produced from regional materials of 14.01

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 48.10	Paper and paperboard, ruled, lined, squared or otherwise printed, in rolls or sheets	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials does not exceed 60 per cent of the export price of the finished product
ex 48.11	Paper and paperboard, ruled, lined, squared or otherwise printed, in rolls or sheets	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 50.07	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product
51.09	Yarn of wool or of fine animal hair, put up for retail sale	Produced from materials not included in 51.06 to 51.08	Produced from materials not included in 51.06 to 51.08
ex 51.10	Yarn of coarse animal hair or of horsehair (including gimped horsehair yarn), put up for retail sale	Produced from materials not included in 51.10	Produced from materials not included in 51.10
ex 51.11	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 51.12	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product
ex 51.13	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product
ex 52.04	Cotton sewing thread, put up for retail sale	Produced from materials not included in 52.04 to 52.06	Produced from materials not included in 52.04 to 52.06
52.07	Cotton yarn (other than sewing thread) put up for retail sale	Produced from materials not included in 52.05 and 52.06	Produced from materials not included in 52.05 and 52.06
ex 52.08	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product
ex 52.09	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 52.10	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product
ex 52.11	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the finished product
ex 52.12	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product
ex 53.06	Flax yarn, put up for retail sale	Produced from materials not included in 53.06	Produced from materials not included in 53.06
ex 53.08	Ramie yarn, put up for retail sale	Produced from materials not included in 53.08	Produced from materials not included in 53.08
ex 53.09	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 53.10	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product
ex 53.11	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product
ex 54.01	Sewing thread of man-made filaments, put up for retail sale	Produced from materials not included in 54.01	Produced from materials not included in 54.01
ex 54.04	Synthetic monofilament of 67 decitex or more and of which no cross-sectional dimension exceeds 1 mm, put up for retail sale	Produced from materials not included in 54.04	Produced from materials not included in 54.04
ex 54.05	Artificial monofilament of 67 decitex or more and of which no cross-sectional dimension exceeds 1 mm, put up for retail sale	Produced from materials not included in 54.05	Produced from materials not included in 54.05
54.06	Man-made filament yarn (other than sewing thread), put up for retail sale	Produced from materials not included in 54.01 to 54.06	Produced from materials not included in 54.01 to 54.06
ex 54.07	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 54.08	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product
ex 55.05	Waste (including noils, yarn waste and garnetted stock) of man-made fibres, put up for retail sale	Produced from materials not included in 55.05	Produced from materials not included in 55.05
ex 55.08	Sewing thread of polyester staple fibres	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product.	Production in which the value of extra-regional materials used does not exceed 65 per cent of the export price of the finished product
ex 55.08	Other sewing thread of man-made staple fibres, put up for retail sale	Produced from materials not included in 55.08 to 55.10	Produced from materials not included in 55.08 to 55.10
ex 55.11	Yarn (other than sewing thread) of man-made staple fibres, put up for retail sale	Produced from materials not included in 55.09 and 55.10	Produced from materials not included in 55.09 and 55.10
ex 55.12	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product
ex 55.13	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 55.14	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product
ex 5.15	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product
ex 55.16	Dyed or printed fabrics	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product
ex 56.04	Rubber thread and cord, textile covered	Produced from rubber thread or cord	Produced from rubber thread or cord
ex 62.12	Articles obtained from parts of this heading	Production in which the value of extra-regional materials used does not exceed 30 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product
63.01	Blankets and travelling rugs	Produced from materials of 51.06 to 51.08, 51.10, 52.05, 52.06, 54.02, 54.03, 55.09 or 55.10	Produced from materials of 51.06 to 51.08, 51.10, 52.05, 52.06, 54.02, 54.03, 55.09 or 55.10

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 63.02	Towels of terry towelling or similar terry fabrics, of cotton	Produced from materials of 52.05 or 52.06	Produced from materials of 52.05 or 52.06
64.01	Waterproof footwear with outer soles and uppers of rubber or of plastics, the uppers of which are neither fixed to the sole nor assembled by stitching, riveting, nailing, screwing, plugging or similar processes	Produced from regional uppers and parts of uppers of 64.06	Produced from regional uppers and parts of uppers or regional soles of 64.06
64.02	Other footwear with outer soles and uppers of rubber or plastics	Produced from regional uppers and parts of uppers of 64.06	Produced from regional uppers and parts of uppers or regional soles of 64.06
64.03	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather	Produced from regional uppers and parts of uppers of 64.06	Produced from regional uppers and parts of uppers or regional soles of 64.06
64.04	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials	Produced from regional uppers and parts of uppers of 64.06	Produced from regional uppers and parts of uppers or regional soles of 64.06
64.05	Other footwear	Produced from regional uppers and parts of uppers of 64.06	Produced from regional uppers and parts of uppers or regional soles of 64.06
ex 66.02	Walking-sticks, of wood or cane	Produced from regional materials of 14.01 or Chapter 44	Produced from regional materials of 14.01 or Chapter 44
68.07	Articles of asphalt or of similar material (for example, petroleum bitumen or coal tar pitch)	Produced from regional materials of 27.08, 27.13, 27.14 or 27.15	Produced from regional materials of 27.08, 27.13, 27.14 or 27.15
68.08	Panels, boards, tiles, blocks and similar articles of vegetable fibre, of straw or of shavings, chips, particles, sawdust or other waste, of wood, agglomerated with cement, plaster or other mineral binders	Produced from regional materials of Chapters 14 and 44	Produced from regional materials of Chapters 14 and 44

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
68.09	Articles of plaster or of compositions based on plaster	Produced from regional materials of 25.20	Produced from regional materials of 25.20
68.10	Articles of cement, of concrete or of artificial stone, whether or not reinforced	Produced from regional materials of 25.23	Produced from regional materials of 25.23
69.04	Ceramic building bricks, flooring blocks, support or filler tiles and the like	Produced from regional materials of 25.05, 25.07, and 25.29	Produced from regional materials of 25.05, 25.07 and 25.29
69.05	Roofing tiles, chimney-pots, cowls, chimney liners, architectural ornaments and other ceramic constructional goods	Produced from regional materials of 25.05, 25.07 and 25.29	Produced from regional materials of 25.05, 25.07 and 25.29
69.06	Ceramic pipes, conduits, guttering and pipe fittings	Produced from regional materials of 25.05, 25.07 and and 25.29	Produced from regional materials of 25.05, 25.07 and 25.29
69.07	Unglazed ceramic flags and paving, hearth or wall tiles; unglazed ceramic mosaic cubes and the like, whether or not on a backing	Produced from regional materials of 25.05, 25.07 and 25.29	Produced from regional materials of 25.05, 25.07 and 25.29
69.09	Ceramic wares for laboratory, chemical or other technical uses; ceramic troughs, tubs and similar receptacles of a kind used in agriculture; ceramic pots, jars and similar articles of a kind used for the conveyance or packing of goods	Produced from regional materials of 25.05, 25.07 and 25.29	Produced from regional materials of 25.05, 25.07 and 25.29
69.10	Ceramic sinks, wash basins, wash basin pedestals, baths, bidets, water closet pans, flushing cisterns, urinals and similar sanitary fixtures	Produced from regional materials of 25.05 and 25.07	Produced from regional materials of 25.05 and 25.07
69.12	Ceramic tableware, kitchenware, other household articles and toilet articles, other than of porcelain or china	Produced from regional materials of 25.05, 25.07 and 25.29	Produced from regional materials of 25.05, 25.07 and 25.29
69.13	Statuettes and other ornamental ceramic articles	Produced from regional materials of 25.05 and 25.07	Produced from regional materials of 25.05 and 25.07

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 70.09	Glass mirrors, whether or not framed, excluding rear-view mirrors	Produced from materials of 70.09	Produced from materials of 70.09
ex 70.19	Articles of glass fibres (including glass wool), (for example, yarn, woven fabrics)	Produced from materials of 70.19	Produced from materials of 70.19
ex 71.06	Silver and silver alloys, in semi-manufactured forms	Produced from unwrought materials of 71.06	Produced from unwrought materials of 71.06
ex 71.08	Gold (including gold plated with platinum) in semi-manufactured forms	Produced from unwrought materials of 71.08	Produced from unwrought materials of 71.08
ex 71.13	Articles of jewellery, of precious metal or of metal clad with precious metal	Produced from materials not included in 71.13, or from materials of 71.13 the value of which does not exceed 20 per cent of the value of all materials used	Produced from materials not included in 71.13, or from materials of 71.13 the value of which does not exceed 20 per cent of the value of all materials used
71.17	Imitation jewellery	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the ex-port price of the finished product
ex 72.07	Billets of steel	Produced from regional materials of 72.03 or materials of 72.04	Produced from regional materials of 72.03 or materials of 72.04
ex 72.10	Steel sheets, clad, plated or coated	Produced from materials of 72.10	Produced from materials of 72.10
ex 72.12	Steel sheets, clad, plated or coated	Produced from materials of 72.12	Produced from materials of 72.12
ex 72.13	Bars and rods (including wire rods), of non-alloy steel	Produced from regional materials of 72.03 or materials of 72.04	Produced from regional materials of 72.03 or materials of 72.04

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 72.14	Other bars and rods of non-alloy steel, not further worked than forged, hot-rolled, hot-drawn or hot-extruded, but including those twisted after rolling	Produced from regional materials of 72.03 or materials of 72.04	Produced from regional materials of 72.03 or materials of 72.04
ex 72.15	Other bars and rods of non-alloy steel	Produced from regional materials of 72.03 or materials of 72.04	Produced from regional materials of 72.03 or materials of 72.04
ex 72.16	Angles, shapes and sections of non-alloy steel	Produced from regional materials of 72.03 or materials of 72.04	Produced from regional materials of 72.03 or materials of 72.04
ex 72.17	Wire, whether or not coated but not insulated, of non-alloy steel	Produced from regional materials of 72.03 or materials of 72.04	Produced from regional materials of 72.03 or materials of 72.04
ex 73.04	Tubes, pipes and hollow profiles, seamless, of non-alloy steel	Produced from regional materials of 72.03 or materials of 72.04	Produced from regional materials of 72.03 or materials of 72.04
ex 73.06	Other tubes, pipes and hollow profiles (for example, open seam or welded, riveted or similarly closed),of non-alloy steel	Produced from regional materials of 72.03 or materials of 72.04	Produced from regional materials of 72.03 or materials of 72.04
ex 73.12	Stranded wire, ropes, cables, plaited bands, slings and the like, of non-alloy steel, not electrically insulated	Produced from regional materials of 72.03 or materials of 72.04	Produced from regional materials of 72.03 or materials of 72.04
ex 73.14	Cloth (including endless bands), grill, netting and fencing, of non-alloy steel wire (excluding PVC-coated galvanised wire mesh)	Produced from regional materials of 72.03 or materials of 72.04	Produced from regional materials of 72.03 or materials of 72.04

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 73.17	Nails, tacks and staples, of non-alloy steel, whether or not with heads of other material, but excluding such articles with heads of copper	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 73.21	Gas stoves, ranges and cookers	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 74.18	Table, kitchen or other household articles, of copper; pot scourers and scouring or polishing pads, gloves and the like, of copper	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 82.01	Hand tools with wooden handles	Produced from materials not included in 82.01 and from regional materials of Chapter 44	Produced from materials not included in 82.01 and from regional materials of Chapter 44
ex 83.01	Padlocks and locks	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 83.05	Letter clips, paper clips and staples, of non-alloy steel	Produced from regional materials of 72.03 or materials of 72.04	Produced from regional materials of 72.03 or materials of 72.04

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 83.11	Welding rods and welding electrodes, of steel	Produced from regional materials of 72.03 or materials of 72.04 and Chapters 28 and 29	Produced from regional materials of 72.03 or materials of 72.04 and Chapters 28 and 29
84.01	Nuclear reactors; fuel elements (cartridges), non-irradiated, for nuclear reactors; machinery and apparatus for isotopic separation	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.02	Steam or other vapour generating boilers (other than central heating hot water boilers capable also of producing low pressure steam); superheated water boilers	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.03	Central heating boilers other than those of heading No. 84.02	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.04	Auxiliary plant for use with boilers of heading No. 84.02 or 84.03 (for example, economisers, super-heaters, soot removers, gas recoverers); condensers for steam or other vapour power units	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.05	Producer gas or water gas generators, with or without their purifiers; acetylene gas generators and similar water process gas generators, with or without their purifiers	Production in which the value of extra-regional materials used does not exceed 50 per cent of of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
84.06	Steam turbines and other vapour turbines	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.07	Spark-ignition reciprocating or rotary internal combustion piston engines	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.08	Compression-ignition internal combustion piston engines (diesel or semi-diesel engines)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.09	Parts suitable for use solely or principally with the engines of heading No. 84.07 or 84.08	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.10	Hydraulic turbines, water wheels, and regulators therefor	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.11	Turbo-jets, turbo-propellers and other gas turbines	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
84.12	Other engines and motors	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.13	Pumps for liquids, whether or not fitted with a measuring device; liquid elevators	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.14	Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.15	Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.16	Furnace burners for liquid fuel, for pulverised solid fuel or for gas; mechanical stokers, including their mechanical grates, mechanical ash dischargers and similar appliances	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.17	Industrial or laboratory furnaces and ovens, including incinerators, non-electric	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
84.18	Refrigerators, freezers and refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of heading No. 84.15	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 84.19	Instantaneous or storage water heaters, non-electric	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 65 per cent of the export price of the finished product
ex 84.19	Machinery, plant or laboratory equipment, whether or not electrically heated, for the treatment of materials by a process involving a change of temperature such as heating, cooking, roasting, distilling, rectifying, sterilising, pasteurising, steaming, drying, evaporating, vaporising, condensing or cooling, other than machinery or plant of a kind used for domestic purposes	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.20	Calendering or other rolling machines, other than for metals or glass, and cylinders therefor	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.21	Centrifuges, including centrifugal dryers; filtering or purifying machinery and apparatus, for liquids or gases	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
84.22	Dish washing machines;machinery for cleaning or drying bottles or other containers; machinery for filling, closing, sealing, or labelling bottles, cans, boxes, bags or other containers; machinery for capsuling bottles, jars, tubes and similar containers; other packing or wrapping machinery (including heat-shrink wrapping machinery); machinery for aerating beverages	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.23	Weighing machinery (excluding balances of a sensitivity of 5 cg or better), including weight operated counting or checking machines; weighing machine weights of all kinds	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.24	Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether of not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.25	Pulley tackle and hoists other than skip hoists; winches and capstans; jacks	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.26	Ships' derricks; cranes, including cable cranes; mobile lifting frames, straddle carriers and works trucks fitted with a crane	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
84.27	Fork-lift trucks; other works trucks fitted with lifting or handling equipment	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.28	Other lifting, handling, loading or unloading machinery (for example, lifts, escalators, conveyors, teleferics)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.29	Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, tamping machines and road rollers	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished produce	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.30	Other moving, grading, levelling, scraping, excavating, tamping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.31	Parts suitable for use solely or principally with the machinery of headings Nos. 84.25 to 84.30	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.32	Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports-ground rollers	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
84.33	Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, other than machinery of heading No. 84.37	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.34	Milking machines and dairy machinery	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.35	Presses, crushers and similar machinery used in the manufacture of wine, cider, fruit juices or similar beverages	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.36	Other agricultural, horticultural, forestry, poultry-keeping or bee-keeping machinery, including germination plant fitted with mechanical or thermal equipment; poultry incubators and brooders	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.37	Machines for cleaning, sorting or grading seed, grain or dried leguminous vegetables; machinery used in the milling industry or for the working of cereals or dried leguminous vegetables, other than farm-type machinery	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.38	Machinery, not specified or included elsewhere in this Chapter, for the industrial preparation or manufacture of food or drink, other than machinery for the extraction or preparation of animal or fixed vegetable fats or oils	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
84.39	Machinery for making pulp of fibrous cellulosic material or for making or finishing paper or paperboard	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.40	Book-binding machinery, including book-sewing machines	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.41	Other machinery for making up paper pulp, paper or paperboard, including cutting machines of all kinds	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.42	Machinery, apparatus and equipment (other than the machine-tools of headings Nos. 84.56 to 84.65), for type-founding or type-setting, for preparing or making printing blocks, plates, cylinders or other printing components; printing type, blocks, plates, cylinders and other printing components; blocks, plates, cylinders and lithographic stones, prepared for printing purposes (for example, planed, grained or polished)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.43	Printing machinery, including ink-jet printing machines, other than those of heading No. 84.71; machines for uses ancillary to printing	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
84.44	Machines for extruding, drawing, texturing or cutting man-made textile materials	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.45	Machines for preparing textile fibres; spinning, doubling or twisting machines and other machinery for producing textile yarns; textile reeling or winding (including weft-winding) machines and machines for preparing textile yarns for use on the machines of heading No. 84.46 or 84.47	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.46	Weaving machines (looms)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.47	Knitting machines, stitch-bonding machines and machines for making gimped yarn, tulle, lace, embroidery, trimmings, braid or net and machines for tufting	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.48	Auxiliary machinery for use with machines of heading No. 84.44, 84.45, 84.46 or 84.47 (for example, dobbies, Jacquards, automatic stop motions, shuttle changing mechanisms); parts and accessories suitable for use solely or principally with the machines of this heading or of heading No. 84.44, 84.45, 84.46 or 84.47 (for example, spindles and spindle flyers, card clothing, combs, extruding nipples, shuttles, healds and heald-frames, hosiery needles)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
84.49	Machinery for the manufacture or finishing of felt or non-wovens in the piece or in shapes, including machinery for making felt hats; blocks for making hats	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.50	Household or laundry-type washing machines, including machines which both wash and dry	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.51	Machinery (other than machines of heading No. 84.50) for washing, cleaning, wringing, drying, ironing, pressing (including fusing presses), bleaching, dyeing, dressing, finishing, coating or impregnating textile yarns, fabrics or made up textile articles and machines for applying the paste to the base fabric or other support used in the manufacture of floor coverings such as linoleum; machines for reeling, unreeling, folding, cutting or pinking textile fabrics	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.52	Sewing machines, other than book-sewing machines of heading No. 84.40; furniture, bases and covers specially designed for sewing machines; sewing machine needles	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.53	Machinery for preparing, tanning or working hides, skins or leather or for making or repairing footwear or other articles of hides, skins or leather, other than sewing machines	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
84.54	Converters, ladles, ingot moulds and casting machines, of a kind used in metallurgy or in metal foundries	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.55	Metal-rolling mills and rolls therefor	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.56	Machine-tools for working any material by removal of material, by laser or other light or photon beam, ultra-sonic, electro-discharge, electro-chemical, electron beam, ionic-beam or plasma arc processes	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.57	Machining centres, unit construction machines (single station) and multi-station transfer machines, for working metal	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.58	Lathes (including turning centres) for removing metal	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
84.59	Machine-tools (including way-type unit head machines) for drilling, boring, milling, threading or tapping by removing metal, other than lathes (including turning centres) of heading No. 84.58	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.60	Machine tools for deburring, sharpening, grinding, honing, lapping, polishing or otherwise finishing metal, or cermets by means of grinding stones, abrasives or polishing products other than gear cutting, gear grinding or gear finishing machines of heading No. 84.61	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.61	Machine-tools for planing, shaping, slotting, broaching, gear cutting, gear grinding or gear finishing, sawing, cutting-off and other machine-tools working by removing metal or cermets, not elsewhere specified or included	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.62	Machine-tools (including presses) for working metal by forging, hammering or die-stamping; machine-tools (including presses) for working metal by bending, folding, straightening, flattening, shearing, punching or notching; presses for working metal or metal carbides, not specified above	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.63	Other machine-tools for working metal or cermets, without removing material	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
84.64	Machine-tools for working stone, ceramics, concrete, asbestos-cement or like mineral materials or for cold working glass	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.65	Machine-tools (including machines for nailing, stapling, glueing or otherwise assembling) for working wood, cork, bone, hard rubber, hard plastics or similar hard materials	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.66	Parts and accessories suitable for use solely or principally with the machines of headings Nos. 84.56 to 84.65, including work or tool holders, self-opening dieheads, dividing heads and other special attachments for machine-tools; tool holders for any type of tool for working in the hand	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.67	Tools for working in the hand, pneumatic, hydraulic or with self-contained non-electric motor	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.68	Machinery and apparatus for soldering, brazing or welding, whether or not capable of cutting, other than those of heading No. 85.15; gas-operated surface tempering machines and appliances	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
84.69	Typewriters other than printers of heading No. 84.71; and word processing machines	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.70	Calculating machines and pocket-size data recording, reproducing and displaying machines with calculating functions; accounting machines, postage-franking machines, ticket-issuing machines and similar machines, incorporating a calculating device; cash registers	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 84.71	Digital automatic data processing machines, comprising in the same housing at least a central processing unit and an input and output unit, whether or not combined	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 65 per cent of the export price of the finished product
ex 84.71	Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included (excluding digital automatic data processing machines, comprising in the same housing at least a central processing unit and an input and output unit, whether or not combined)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.72	Other office machines (for example, hectograph or stencil duplicating machines, addressing machines, automatic bank-note dispensers, coin-sorting machines, coin-counting or wrapping machines, pencil - sharpening machines, perforating or stapling machines)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
84.73	Parts and accessories (other than covers, carrying cases and the like) suitable for use solely or principally with machines of headings Nos. 84.69 to 84.72	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.74	Machinery for sorting, screening, separating, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomerating, shaping or moulding solid mineral fuels, ceramic paste, unhardened cements, plastering materials or other mineral products in powder or paste form; machines for forming foundry moulds of sand	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.75	Machines for assembling electric or electronic lamps, tubes or valves or flashbulbs, in glass envelopes; machines for manufacturing or hot working glass or glassware	iProduction in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.76	Automatic goods-vending machines (for example, postage stamp, cigarette, food or beverage machines), including money-changing machines	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.77	Machinery for working rubber or plastics or for the manufacture of products from these materials, not specified or included elsewhere in this Chapter	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
84.78	Machinery for preparing or making up tobacco, not specified or included elsewhere in this Chapter	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.79	Machines and mechanical appliances having individual functions, not specified or included elsewhere in this Chapter	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 84.80	Moulding boxes for metal foundry; mould bases; moulding patterns; moulds for metal (other than ingot moulds), metal carbides, glass, mineral materials or rubber	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.81	Taps, cocks, valves and similar appliances for pipes, boiler shells, tanks, vats or the like, including pressure-reducing valves and thermostatically controlled valves	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.82	Ball or roller bearings	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.83	Transmission shafts (including cam shafts and crank shafts) and cranks; bearing housings and plain shaft bearings; gears and gearing; ball or roller screws; gear boxes and other speed changers, including torque converters; flywheels and pulleys, including pulley blocks; clutches and shaft couplings (including universal joints)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
84.84	Gaskets and similar joints of metal sheeting combined with other material or of two or more layers of metal; sets or assortments of gaskets and similar joints, dissimilar in composition, put up in pouches, envelopes or similar packings; mechanical seals	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
84.85	Machinery parts, not containing electrical connectors, insulators, coils, contacts or other electrical features, not specified or included elsewhere in this Chapter	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.01	Electric motors and generators (excluding generating sets)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.02	Electric generating sets and rotary converters	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.03	Parts suitable for use solely or principally with the machines of heading No. 85.01 or 85.02	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.04	Electrical transformers, static converters (for example, rectifiers) and inductors	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
85.05	Electro-magnets; permanent magnets and articles intended to become permanent magnets after magnetisation; electro-magnetic or permanent magnet chucks, clamps and similar holding devices; electro-magnetic couplings, clutches and brakes; electro-magnetic lifting heads	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.06	Primary cells and primary batteries	Production in which the value of extra-regional materials used does not exceed 50 per cent of export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.07	Electric accumulators, including separators therefor, whether or not rectangular (including square)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.08	Electro-mechanical tools for working in the hand, with self-contained electric motor	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished
85.09	Electro-mechanical domestic appliances, with self-contained electric motor	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.10	Shavers, hair clippers and hair-removing appliances, with self-contained electric motor	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
85.11	Electrical ignition or starting equipment of a kind used for spark-ignition or compression-ignition internal combustion engines (for example, ignition magnetos, magneto-dynamos, ignition coils, sparking plugs and glow plugs, starter motors); generators (for example, dynamos, alternators) and cut-outs of a kind used in conjunction with such engines	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.12	Electrical lighting or signalling equipment (excluding articles of heading No. 85.39), windscreen wipers, defrosters and demisters, of a kind used for cycles or motor vehicles	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.13	Portable electric lamps designed to function by their own source of energy (for example, dry batteries, accumulators, magnetos), other than lighting equipment of heading No. 85.12	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.14	Industrial or laboratory electric (including induction or dielectric) furnaces and ovens; other industrial or laboratory induction or dielectric heating equipment	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.15	Electric (including electrically heated gas),laser or other light or photon beam, ultrasonic, electron beam, magnetic pulse or plasma arc soldering, brazing or welding machines and apparatus, whether or not capable of cutting; electric machines and apparatus for hot spraying of metals or cermets	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 85.16	Immersion heaters; electric space heating apparatus and soil heating apparatus; electro-thermic hair-dressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric smoothing irons; other electro-thermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of heading No. 85.45	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 85.16	Electric instantaneous or storage water heaters	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 65 per cent of the export price of the finished product
85.17	Electrical apparatus for line telephony or line telegraphy, including line telephone sets with cordless handsets and telecommunication apparatus for carrier-current line systems or for digital line systems; videophones	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.18	Microphones and stands therefor; loudspeakers, whether or not mounted in their enclosures; headphones, earphones and combined microphone/speaker sets; audio-frequency electric amplifiers; electric sound amplifier sets	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.19	Turntables (record-decks), record-players, cassette-players and other sound reproducing apparatus, not incorporating a sound recording device	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 85.20	Other magnetic tape recorders and other sound recording apparatus, whether or not incorporating a sound reproducing device (excluding cassette-type magnetic tape recorders)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 85.20	Cassette-type magnetic tape recorders, whether or not incorporating a sound reproducing device	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 65 per cent of the export price of the finished product
85.21	Video recording or reproducing apparatus, whether or not incorporating a video tuner	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.22	Parts and accessories suitable for use solely or principally with the apparatus of headings Nos. 85.19 to 85.21	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.23	Prepared unrecorded media for sound recording or similar recording of other phenomena, other than products of Chapter 37	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 85.24	Recorded media for sound or other similarly recorded phenomena, including matrices and masters for the production of records, but excluding products of Chapter 37 (excluding records and tapes)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
85.25	Transmission apparatus for radio-telephony, radio-telegraphy, radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras; still image video cameras and other video camera recorders	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.26	Radar apparatus, radio navigational aid apparatus and radio remote control apparatus	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 85.27	Other reception apparatus for radio-telephony or radio-telegraphy, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock (excluding radio-broadcast receivers, car stereos and music centres)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 85.27	Radio-broadcast receivers, car stereos and music centres	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 65 per cent of the export price of the finished product
ex 85.28	Video monitors and video projectors; reception apparatus for television, incorporating sound or video recording or reproducing apparatus	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 85.28	Reception apparatus for television (excluding video monitors and video projectors), whether or not incorporating radio-broadcast receivers	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 65 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
85.29	Parts suitable for use solely or principally with the apparatus of headings Nos. 85.25 to 85.28	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.30	Electrical signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields (other than those of heading No. 86.08)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.31	Electric sound or visual signalling apparatus (for example, bells, sirens, indicator panels, burglar or fire alarms), other than those of heading No. 85.12 or 85.30	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.32	Electrical capacitors, fixed, variable or adjustable (preset)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.33	Electrical resistors (including rheostats and potentiometers), other than heating resistors	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
85.34	Printed circuits	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.35	Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, fuses, lightning arrestors, voltage limiters, surge suppressors, plugs, junction boxes), for a voltage exceeding 1,000 volts	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.36	Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits (for example, switches, relays, fuses, surge suppressors, plugs, sockets, lamp holders, junction boxes), for a voltage not exceeding 1,000 volts	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 85.37	Other boards, panels consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading No. 85.35 or 85.36, for electric control or the distribution of electricity including those incorporating instruments or apparatus of Chapter 90, and numerical control apparatus, other than switching apparatus of heading No. 85.17 (excluding load centres, panel boards, meter sockets, meter control centres, switchboards, unit sub-stations, and protective devices)	production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 85.37	Load centres, panel boards, meter sockets, meter control centres, switchboards, unit sub-stations and protective devices	Production in which the value of extra-regional materials used does not exceed 55 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 65 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
85.38	Parts suitable for use solely or principally with the apparatus of heading No. 85.35, 85.36 or 85.37	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 85.39	Incandescent light bulbs	Produced from regional materials of 85.39	Produced from regional materials of 85.39
85.40	Thermionic, cold cathode or photo-cathode valves and tubes (for example, vacuum or vapour or gas filled valves and tubes, mercury arc rectifying valves and tubes, cathode-ray tubes, television camera tubes)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.41	Diodes, transistors and similar semiconductor devices; photosensitive semiconductor devices, including photo-voltaic cells whether or not assembled in modules or made up into panels; light emitting diodes; mounted piezo-electric crystals	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.42	Electronic integrated circuits and microassemblies	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.43	Electrical machines and apparatus, having individual functions, not specified or included elsewhere in this Chapter	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 85.44	Cable (including co-axial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.45	Carbon electrodes, carbon brushes, lamp carbons, battery carbons and other articles of graphite or other carbon, with or without metal, of a kind used for electrical purposes	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.46	Electrical insulators of any material	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
85.47	Insulating fittings for electrical machines, appliances or equipment, being fittings wholly of insulating material apart from any minor components of metal (for example, threaded sockets) incorporated during moulding solely for purposes of assembly, other than insulators of heading No. 85.46; electrical conduit tubing and joints therefor, of base metal lined with insulating material	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 85.48	Electrical parts of machinery or apparatus, not specified or included elsewhere in this Chapter	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
86.01	Rail locomotives powered from an external source of electricity or by electric accumulators	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
86.02	Other rail locomotives; locomotive tenders	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
86.03	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading No. 86.04	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
86.04	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, trackliners, testing coaches and track inspection vehicles)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
86.05	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading No. 86.04)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
86.06	Railway or tramway goods vans and wagons, not self-propelled	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
86.07	Parts of railway or tramway locomotives or rolling-stock	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
86.08	Railway or tramway track fixtures and fittings; mechanical (including electro-mechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
86.09	Containers (including containers for the transport of fluids) specially designed and equipped for carriage by one or more modes of transport	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
87.01	Tractors (other than tractors of heading No. 87.09)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
87.02	Motor vehicles for the transport of ten or more persons, including the driver	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 87.03	Other Motor vehicles principally designed for the transport of persons (other than those of heading No. 87.02), including racing cars (excluding motor cars, station wagons and four-wheel drive vehicles)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 87.03	Motor cars, station wagons and four-wheel drive vehicles	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 70 per cent of the export price of the finished product
ex 87.04	Motor vehicles for the transport of goods (excluding lorries and trucks)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 87.04	Lorries and trucks	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished of product	Production in which the value of extra-regional materials used does not exceed 70 per cent of the export price of the finished product
87.05	Special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example,breakdown lorries, crane lorries, fire fighting vehicles, concrete-mixer lorries, road sweeper lorries, spraying lorries, mobile work-shops, mobile radiological units)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
87.06	Chassis fitted with engines, for the motor vehicles of headings Nos. 87.01 to 87.05	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
87.07	Bodies (including cabs), for the motor vehicles of headings Nos. 87.01 to 87.05	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
87.08	Parts and accessories of the motor vehicles of headings Nos. 87.01 to 87.05	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
87.09	Works trucks, self-propelled, not fitted with lifting or handling equipment, of the type used in factories, warehouses, dock areas or airports for short distance transport of goods; tractors of the type used on railway station platforms; parts of the foregoing vehicles	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
87.10	Tanks and other armoured fighting vehicles, motorised, whether or not fitted with weapons, and parts of such vehicles	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
87.11	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
87.12	Bicycles and other cycles (including delivery tricycles), not motorised	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
87.13	Invalid carriages, whether or not motorised or otherwise mechanically propelled	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
87.14	Parts and accessories of vehicles of headings Nos. 87.11 to 87.13	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
87.15	Baby carriages and parts thereof	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
87.16	Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished
88.01	Balloons and dirigibles; gliders, hang gliders and other non-powered aircraft	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
88.02	Other aircraft (for example, helicopters, aeroplanes); spacecraft (including satellites) and suborbital and spacecraft launch vehicles	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
88.03	Parts of goods of heading No. 88.01 or 88.02	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
88.04	Parachutes (including dirigible parachutes and paragliders) and rotochutes; parts thereof and accessories thereto	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
88.05	Aircraft launching gear; deck-arrestor or similar gear; ground flying trainers; parts of the foregoing articles	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
89.01	Cruise ships, excursion boats, ferry-boats and cargo ships, barges and similar vessels for the transport of persons or goods	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
89.02	Fishing vessels; factory ships and other vessels for processing or preserving fishery products	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
89.03	Yachts and other vessels for pleasure or sports; rowing boats and canoes	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
89.04	Tugs and pusher craft	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
89.05	Light-vessels, fire-floats, dredgers, floating cranes, and other vessels the navigability of which is subsidiary to their main function; floating docks; floating or submersible drilling or production platforms	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
89.06	Other vessels, including warships and lifeboats other than rowing boats	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
89.07	Other floating structures (for example, rafts, tanks, coffer-dams, landing-stages, buoys and beacons)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
89.08	Vessels and other floating structures for breaking up	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.01	Optical fibres and optical fibre bundles; optical fibre cables other than those of heading No. 85.44; sheets and plates of polarising material; lenses (including contact lenses), prisms, mirrors and other optical elements, of any material, unmounted, other than such elements of glass not optically worked	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.02	Lenses, prisms, mirrors and other optical elements, of any material, mounted, being parts or of fittings for instruments or apparatus, other than such elements of glass not optically worked	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.03	Frames and mountings for spectacles, goggles or the like, and parts thereof	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.04	Spectacles, goggles and the like, corrective, protective or other	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
90.05	**Binoculars, monoculars, other** optical telescopes, and mountings therefor; other astronomical instruments and mountings therefor, but not including instruments for radio-astronomy	**Production in** which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	**Production in** which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.06	Photographic (other than cinematographic) cameras; photographic flashlight apparatus and flashbulbs other **than discharge lamps of heading** No. 85.39	Production in which the value of extra-regional materials used **does not exceed** 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used **does not** exceed 60 per cent of the export price of the finished product
90.07	Cinematographic cameras and projectors, whether or not incorporating sound recording or reproducing apparatus	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.08	Image projectors, other than cinematographic; photographic (other than cinematographic) enlargers and reducers	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.09	Photo-copying apparatus incorporating an optical system or of the contact type and thermo-copying apparatus	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
90.10	Apparatus and equipment for photographic (including cinematographic) laboratories (including apparatus for the projection or drawing of circuit patterns on sensitised semiconductor materials), not specified or included elsewhere in this Chapter; negatoscopes; projection screens	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.11	Compound optical microscopes, including those for photomicrography, cinephotomicrography or microprojection	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.12	Microscopes other than optical microscopes; diffraction apparatus	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.13	Liquid crystal devices not constituting articles provided for more specifically in other headings; lasers, other than laser diodes; other optical appliances and instruments, not specified or included elsewhere in this Chapter	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.14	Direction finding compasses; other navigational instruments and appliances	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.15	Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
90.16	Balances of a sensitivity of 5 cg or better, with or without weights	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.17	Drawing, marking-out or mathematical calculating instruments (for example, drafting machines, pantographs, protractors, drawing sets, slide rules, disc calculators); instruments for measuring length, for use in the hand (for example, measuring rods and tapes, micrometers, callipers), not specified or included elsewhere in this Chapter	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.18	Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.19	Mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.20	Other breathing appliances and gas masks, excluding protective masks having neither mechanical parts nor replaceable filters	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.21	Orthopaedic appliances, including crutches, surgical belts and trusses; splints and other fracture appliances; artificial parts of the body; hearing aids and other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
90.22	Apparatus based on the use of X-rays or of alpha, beta or gamma radiations, whether or not for medical, surgical, dental or veterinary uses, including radiography or radiotherapy apparatus, X-ray tubes and other X-ray generators, high tension generators, control panels and desks, screens, examination or treatment tables, chairs and the like	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.23	Instruments, apparatus and models, designed for demonstrational purposes (for example, in education or exhibitions), unsuitable for other uses	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.24	Machines and appliances for testing the hardness, strength, compressibility, elasticity or other mechanical properties of materials (for example, metals, wood, textiles, paper, plastics)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.25	Hydrometers and similar floating instruments, thermometers, pyrometers, barometers, hygrometers and psychrometers, recording or not, and any combination of these instruments	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.26	Instruments and apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases (for example, flow meters, level guages, manometers, heat meters), excluding instruments and apparatus of heading No. 90.14, 90.15, 90.28 or 90.32	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
90.27	Instruments and apparatus for physical or chemical analysis (for example, polarimeters, refractometers, spectrometers, gas or smoke analysis apparatus), instruments and apparatus for measuring or checking viscosity, porosity, expansion, surface tension or the like; instruments and apparatus for measuring or checking quantities of heat, sound or light (including exposure meters); microtomes	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.28	Gas, liquid or electricity supply or production meters, including calibrating meters therefor	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.29	Revolution counters, production counters, taximeters, mileometers, pedometers and the like; speed indicators and tachometers, other than those of heading No. 90.14 or 90.15; stroboscopes	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.30	Oscilloscopes, spectrum analysers and other instruments and apparatus for measuring or checking electrical quantities, excluding meters of heading No. 90.28; instruments and apparatus for measuring or detecting alpha, beta, gamma, X-ray, cosmic or other ionising radiations	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra regional materials used does not exceed 60 per cent of the export price of the finished product
90.31	Measuring or checking instruments, appliances and machines, not specified or included elsewhere in this Chapter; profile projectors	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
90.32	Automatic regulating or controlling instruments and apparatus	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
90.33	Parts and accessories (not specified or included elsewhere in this Chapter) for machines, appliances, instruments or apparatus of Chapter 90	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
91.01	Wrist-watches, pocket-watches and other watches, including stop-watches, with case of precious metal or of metal clad with precious metal	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra regional materials used does not exceed 60 per cent of the export price of the finished product
91.02	Wrist-watches, pocket-watches and other watches, including stop-watches, other than those of heading No. 91.01	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
91.03	Clocks with watch movements, excluding clocks of heading No. 91.04	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
91.04	Instrument panel clocks and clocks of a similar type for vehicles, aircraft, space-craft or vessels	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
91.05	Other clocks	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
91.06	Time of day recording apparatus and apparatus for measuring, recording or otherwise indicating intervals of time, with clock or watch movement or with synchronous motor (for example, time-registers, time recorders)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
91.07	Time switches with clock or watch movement or with synchronous motor	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra regional materials used does not exceed 60 per cent of the export price of the finished product
91.08	Watch movements, complete and assembled	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
91.09	Clock movements, complete and assembled	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
91.10	Complete watch or clock movements, unassembled or partly assembled (movement sets); incomplete watch or clock movements, assembled; rough watch or clock movements	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
91.11	Watch cases and parts thereof	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra regional materials used does not exceed 60 per cent of the export price of the finished product
91.12	Clock cases and cases of a similar type for other goods of this Chapter, and parts thereof	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
91.13	Watch straps, watch banks and watch bracelets, and parts thereof	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
91.14	Other clock or watch parts	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
92.01	Pianos, including automatic pianos; harpsichords and other keyboard stringed instruments	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra regional materials used does not exceed 60 per cent of the export price of the finished product
ex 92.02	Other string musical instruments (excluding guitars)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
92.03	Keyboard pipe organs; harmoniums and similar keyboard instruments with free metal reeds	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
92.04	Accordions and similar instruments; mouth organs	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
92.05	Other wind musical instruments; (for example, clarinets, trumpets, bagpipes)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra regional materials used does not exceed 60 per cent of the export price of the finished product
ex 92.06	Percussion musical instruments (for example, drums, xylophones, cymbals, castanets, maraccas) (excluding steelband instruments)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
92.07	Musical instruments, the sound of which is produced, or must be amplified, electrically (for example, organs, guitars, accordions)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
92.08	Musical boxes, fairground organs, mechanical street organs, mechanical singing birds, musical saws and other musical instruments not falling within any other heading of this Chapter; decoy calls of all kinds; whistles, call horns and other mouth-blown sound signalling instruments	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
92.09	Parts (for example, mechanisms for musical boxes) and accessories (for example, cards, discs and rolls for mechanical instruments) of musical instruments; metronomes, tuning forks and pitch pipes of all kinds	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra regional materials used does not exceed 60 per cent of the export price of the finished product
93.01	Military weapons, other than revolvers, pistols and arms of heading No. 93.07	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
93.02	Revolvers and pistols, other than those of heading No. 93.03 or 93.04	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
93.03	Other firearms and similar devices which operate by the firing of an explosive charge (for example, sporting shotguns and rifles, muzzle-loading firearms, Very pistols and other devices designed to project only signal flares, pistols and revolvers for firing blank ammunition, captive-bolt humane killers, line-throwing guns)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
93.04	Other arms (for example, spring, air or gas guns and pistols, truncheons), excluding those of heading No. 93.07	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra regional materials used does not exceed 60 per cent of the export price of the finished product
93.05	Parts and accessories of articles of headings Nos. 93.01 to 93.04	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
93.06	Bombs, grenades, torpedoes, mines, missiles, and similar munitions of war and parts thereof; cartridges and other ammunition and projectiles and parts thereof, including shot and cartridge wads	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
93.07	Swords, cutlasses, bayonets, lances and similar arms and parts thereof and scabbards and sheaths therefor	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 94.01	Office chairs with tilting mechanisms and/or metal support bases	Produced from tilting mechanisms and/or metal support bases of 94.01 or from materials not included in 94.01	Produced from tilting mechanisms and/or metal support bases of 94.01 or from materials not included in 94.01
ex 94.01	Other metal chairs of a kind used in offices	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
94.02	Medical, surgical, dental or veterinary furniture (for example, operating tables, examination tables, hospital beds with mechanical fittings, dentists' chairs); barbers' chairs and similar chairs, having rotating as well as both reclining and elevating movements; parts of the foregoing articles	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 94.03	Other metal furniture of a kind used in offices	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product
ex 94.04	Articles of bedding and similar furnishing (excluding mattresses, cushions, pouffes and pillows; mattress supports)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 94.06	Prefabricated buildings, of wood	Produced from regional materials of Chapter 44	Produced from regional materials of Chapter 44
95.01	Wheeled toys designed to be ridden by children (for example, tricycles, scooters, pedal cars); dolls' carriages	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 95.04	Articles for funfair, table or parlour games, including pin-tables, billiards, special tables for casino games and automatic bowling alley equipment (excluding draught and chess boards)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 95.05	Festive or other entertainment articles, including conjuring tricks and novelty jokes (excluding carnival articles)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 95.06	Articles and equipment for gymnastics, athletics, other sports (including table-tennis) or outdoor games, not specified or included elsewhere in this Chapter; swimming pools and paddling pools (excluding table-tennis boards)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
95.07	Fishing rods, fish-hooks and other line fishing tackle; fish landing nets, butterfly nets and similar nets; decoy "birds" (other than those of heading No. 92.08 or 97.05) and similar hunting or shooting requisites	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 95.08	Shooting galleries and other fairground amusements (excluding roundabouts and swings); travelling circuses, travelling menageries and travelling theatres	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 96.01	Worked ivory, bone, tortoise-shell, horn, antlers, coral, mother-of-pearl and other animal carving material	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 96.02	Worked vegetable or mineral carving material; worked, unhardened gelatin (except gelatin of heading No. 35.03)	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
ex 96.03	Brooms, mops and paint rollers, with handles of wood	Produced from materials not included in 96.03 and from regional handles of Chapter 44	Produced from materials not included in 96.03 and from regional handles of Chapter 44
96.04	Hand sieves and hand riddles	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
96.05	Travel sets for personal toilet, sewing or shoe or clothes cleaning	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 96.06	Press-fasteners, snap-fasteners and press-studs, button moulds and other parts of these articles; button blanks	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 96.07	Parts of slide fasteners	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 96.07	Slide fasteners	Production in which the value of extra-regional materials used does not exceed 40 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
96.08	Ball point pens; felt tipped and other porous-tipped pens and markers; fountain pens, stylograph pens and other pens; duplicating stylos; propelling or sliding pencils; pen-holders, pencil-holder and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading No. 96.09	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 96.09	Pencil leads, pastels, drawing charcoals and tailors' chalks	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
96.10	Slates and boards, with writing or drawing surfaces, whether or not framed	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
ex 96.11	Embossing stamps, designed for operating in the hand; hand-operated composing sticks and hand printing sets incorporating such composing sticks	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
96.12	Typewriter or similar ribbons, inked or otherwise prepared for giving impressions, whether or not on spools or in cartridges; ink-pads, whether or not inked, with or without boxes	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
96.13	Cigarette lighters and other lighters, whether or not mechanical or electrical, and parts thereof other than flints and wicks	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

TARIFF HEADING NUMBER	PRODUCT	CONDITIONS TO BE COMPLIED WITH	
		MDCs	LDCs
96.14	Smoking pipes (including pipe bowls) and cigar amd cigarette holders, and parts thereof	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
96.15	Combs, hair-slides and the like; hairpins, curling pins, curling grips, hair-curlers and the like, other than those of heading No. 85.16, and parts thereof	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
96.16	Scent sprays and similar toilet sprays, and mounts and heads therefor; powder-puffs and pads for the application of cosmetics or toilet preparations	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
96.17	Vacuum flasks and other vacuum vessels, complete with cases; parts thereof other than glass inners	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product
96.18	Tailors' dummies and other lay figures; automata and other animated displays used for shop window dressing	Production in which the value of extra-regional materials used does not exceed 50 per cent of the export price of the finished product	Production in which the value of extra-regional materials used does not exceed 60 per cent of the export price of the finished product

(b) RULES REGARDING COMMUNITY ORIGIN

For the purpose of determining the origin of goods under Article 84 of the Treaty and for the application of that Article and the List, the following Rules shall be applied.

Rule 1 - Interpretative Provisions

1. In determining the place of production of marine products and goods produced therefrom, a vessel of a Member State shall be regarded as part of that State. In determining the place from which goods have been consigned, marine products taken from the sea or goods produced therefrom at sea shall be regarded as having been consigned from a Member State if they were taken by or produced in a vessel of a Member State and have been brought direct to the Community.

2. For the purpose of these Rules a vessel shall be treated as a vessel of a Member State only if -

(a) it is registered in a Member State;

(b) it carries a complement (inclusive of the Master thereof) of which not less than three-fourths are nationals of Member States; and

(c) it is majority owned and operated by -

(i) nationals of Member States, or

(ii) a Government of a Member State, or

(iii) a statutory Corporation of a Member State

In this paragraph nationals of Member States shall have the same meaning as in paragraph 5 of Article 32 of this Treaty.

3. "Materials" includes raw materials, intermediate products, parts and components used in the process of production, repair, renovation or improvement of the goods.

4. Energy, fuel, plant, machinery and tools used in the production, repair, renovation or improvement of goods within the Community and materials used in the maintenance of such plant, machinery and tools, shall be regarded as wholly produced within the Community when determining the origin of these goods.

5. Goods other than those to which paragraph 1 of Rule 2 of these Rules applies shall not be treated as being of Community origin if they are produced by any operation or process which consists only of one or more of the following, whether or not there is a change of tariff heading -

(a) operations to ensure the preservation of goods during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solution, removal of damaged parts, and like operations);

(b) simple operations consisting of removal of dust, sifting or screening, sorting, grading, classifying, matching (including the making up of sets

of articles), washing, painting and cutting up resulting in the mere reduction in size;

(c) (i) changes of packing;

(ii) simple placing in bottles, flasks, bags, cases, boxes, fixing on cards or boards and other simple packing operations;

(d) affixing marks, labels or other like distinguishing signs on goods or their packaging;

(e) simple mixing of materials imported from outside the Community or of undetermined origin if the characteristics of the goods as a whole are not essentially different from the characteristics of the materials which have been mixed;

(f) operations which consist solely of welding, soldering, fastening, riveting, bolting and like operations, or otherwise putting together of all finished parts or components to constitute a finished product.

6. "Chapter" and "tariff heading" in article 84 or in this Schedule shall mean the Chapters and headings of the Harmonised Commodity Description and Coding System.

7. For the purpose of sub-paragraph (f) of paragraph 5, the expression "finished parts or components" refers to those articles which are imported into the Community in a form or condition which does not require any further fabrication, change in shape or form, resulting in a change in identity or use or the application of permanent protective/ decorative coating for the purposes of incorporation in the finished product.

8. Paragraphs 5(f) and 7 in this Rule shall take effect one year after the entry into force of the amendment of this Schedule, pursuant to the decision of the Council at its Special Meeting in July 1990.

Rule 2 - Goods Wholly Produced Within the Community

1. The expression "wholly produced" when used with reference to goods means:

(a) mineral products extracted from the ground within the Community;

(b) vegetable products harvested within the Community;

(c) live animals born and raised within the Community;

(d) products obtained within the Community from live animals;

(e) products obtained by hunting or fishing conducted within the Community;

(f) marine products taken from the sea by a vessel of a Member State;

(g) goods produced within the Community exclusively from one or both of the following -

(i) goods referred to in sub-paragraphs (a) to (f) and (h) and (i) of this paragraph;

(ii) goods containing no materials imported from outside the Community or of undetermined origin, or containing those materials

but which would not be regarded as such under paragraph 1 of Rule 3;

and shall be taken to include -

(h) used articles fit only for the recovery of materials provided that they have been collected from users within the Community;

(i) scrap and waste resulting from manufacturing operations within the Community.

2. Wherever in paragraph 1 of Article 84 of this Treaty goods are required to be wholly produced, the use of small quantities of preservatives, vitamins, colouring and similar materials imported from outside the Community or of undetermined origin shall not affect their eligibility for Community treatment as wholly produced.

Rule 3 - Application of the Criterion of Substantial Transformation

1. Where materials containing any element imported from outside the Community meet the conditions specified in Article 84, those materials shall be regarded as containing no such element.

2. For the purpose of Article 84 -

(a) the value of any materials imported from outside the Community shall be the customs value determined for them by the Customs Authority in the Member State where they were used in a process of production, less the amount of any transport costs incurred in transit through other Member States;

(b) if the origin of any materials cannot be determined, such materials shall be deemed to have been imported from outside the Community;

(c) the export price of the goods shall be the value accepted for this purpose by the Customs Authority in the Member State in which they were produced. It shall be based, mutatis mutandis, on the provision set out in sub-paragraph (a), but shall not include the amounts of transport and insurance costs incurred after the exportation of the goods.

3. In the application of the List the conditions to be complied with other than a percentage value-added condition applicable to any goods shall be fulfilled in respect of the whole of the goods, excluding any packing.

4. The expressions appearing in the columns headed "conditions to be complied with" in the List and set out below shall be applied in the following manner:

(a) "produced from regional materials of" - the materials falling within the tariff headings or Chapters named may be used only if they qualify to be treated as of Community origin within the meaning of Article 84. This does not preclude the use of regional materials in an earlier stage of production;

(b) "produced from materials of" and "produced from" - the materials named or designated as the case may be must be used in the condition in which

they are described. This does not preclude the use of the materials in an earlier stage of production;

(c) "produced from materials not included in" - the materials which fall in the tariff headings named may not be used if they are imported from outside the Community or are of undetermined origin;

(d) "extraregional materials" shall mean materials imported from outside the Community or of undetermined origin;

(e) "chemical transformation" shall mean the forming of the molecule of the finished product by -

(i) the combination of two or more elements; or

(ii) any modification of the structure of the molecule of a compound with the exception of ionisation and the addition or removal of water of crystallisation.

Rule 4 - Unit of Qualification

1. Each article in a consignment shall be considered separately.

2. For the purposes of paragraph 1 of this Rule -

(a) where the Harmonised Commodity Description and Coding System specifies that a group, set or assembly of articles is to be classified within a single heading, such a group, set or assembly shall be treated as one article;

(b) tools, parts and accessories which are imported with an article, and the price of which is included in that of the article or for which no separate charge is made, shall be considered as forming a whole with the article, provided that they constitute the standard equipment customarily included on the sale of articles of that kind;

(c) in cases not within sub-paragraphs (a) and (b), goods shall be treated as a single article if they are so treated for purposes of assessing Customs duties by the importing Member State.

3. An unassembled or disassembled article which is imported in more than one consignment because it is not feasible for transport or production reasons to import it in a single consignment shall, if the importer so requests, be treated as one article.

Rule 5 - Segregation Of Materials

1. For those products or industries where it would be impracticable for the producer physically to segregate materials of similar character but different origin used in the production of goods, such segregation may be replaced by an appropriate accounting system, which ensures that no more goods received Community tariff treatment, than would have been the case, if the producer had been able physically to segregate the materials.

2. Any such accounting system shall conform to such conditions as may be agreed upon by Member States concerned in order to ensure that adequate control measures will be applied.

Rule 6 - Treatment of Repaired Goods

1. For the purposes of paragraph 4 of Article 84 goods shall be treated as having undergone a process of repair, renovation or improvement if the performance of such process within the Community does not result in a change of the form or character of the goods.

2. The cost of repair, renovation or improvement shall refer to the cost of all materials which are used plus the costs involved in effecting the repair, renovation or improvement, excluding freight, other transport charges, insurance and other shipping costs.

Rule 7 - Treatment of Packing

1. Where for purposes of assessing Customs duties a Member State treats goods separately from their packing, it may also, in respect of its imports consigned from another Member State, determine separately the origin or such packing.

2. Where paragraph 1 of this Rule is not applied, packing of any sort shall be considered as forming a whole with the goods for the purposes only of the application of the percentage value-added conditions. No part of any packing required for the transport or storage of goods shall be considered as having been imported from outside the Community when determining the origin of the goods as a whole.

Rule 8 - Documentary Evidence

1. A claim that goods shall be accepted as eligible for Community tariff treatment shall be supported by appropriate documentary evidence or origin and consignment. The evidence of origin shall consist of a certificate given by a Governmental authority or authorised body nominated by the exporting Member State and notified to the other Member States together with a declaration completed by the exporter of the goods.

2. The governmental authority or the authorised body shall obtain a declaration as to the origin of the goods given by the last producer of the goods within the Community. The authority or body shall satisfy themselves as to the accuracy of the evidence provided; where necessary they shall require the production of additional information, and shall carry out any suitable check. If the authorities of the importing Member State so require, a confidential indication of the producer of the goods shall be given.

3. Nominations of authorised bodies for the purpose of this Rule may be withdrawn by the exporting Member State if the need arises. Each Member State shall retain, in regard to its imports, the right of refusing to accept certificates from any authorised body which is shown to have repeatedly issued certificates in an improper manner, but such action shall not be taken without adequate prior notification to the exporting Member State of the grounds for dissatisfaction.

4. In cases where the Member States concerned recognise that it is impracticable for the producer to make the declaration of origin specified in paragraph 2 of this Rule, the exporter may make that declaration in such form as those Member States may for the purpose specify.

5. The certificate and declaration provided for in this Rule shall be in the form prescribed by the COTED from time to time.

6. The COTED may decide that further or different provisions concerning evidence of origin or of consignment shall apply to particular categories of goods or classes or transactions.

Rule 9 - Verification of Evidence of Origin

1. The importing Member State may as necessary require further evidence to support any declaration or certificate of origin furnished under Rule 8.

2. The importing Member State shall not prevent the importer from taking delivery of the goods solely on the grounds that it requires such further evidence, but may require security for any duty or other charge which may be payable; provided that where goods are subject to any import restrictions or prohibitions, the stipulation for delivery under security shall not apply.

3. Where, under paragraph 1 of this Rule, a Member State has required further evidence to be furnished, those concerned in another Member State shall be free to produce it to a governmental authority or an authorised body of the latter State, who shall, after thorough verification of the evidence, furnish an appropriate report to the importing Member State.

4. Where it is necessary to do so by reason of its legislation, a Member State may prescribe that requests by the authorities of importing Member States for further evidence from those concerned in the Member State shall be addressed to a specified governmental authority, who shall after thorough verification of the evidence furnish an appropriate report to the importing Member State.

5. If the importing Member State wishes an investigation to be made into the accuracy of the evidence which it has received it may make a request to that effect to the other Member State or States concerned.

6. Information obtained under the provisions of this Rule by the importing Member State shall be treated as confidential.

Rule 10 - Application Of The Safeguard Mechanism

1. The information required pursuant to paragraph 4 of Article 84 shall be rendered in writing and shall be such as the Competent Authority may require.

2. For the purposes of carrying out his investigations, the Secretary-General may seek such additional information as he considers to be relevant. Replies to the enquiries by the Secretary-General should be sent by telex, telefax or other similar means of communication.

3. The Competent Authority shall ensure that no more extraregional materials are used in production for purposes of Common Market treatment than are authorised by the Secretary-General. The Competent Authority shall make available to the Governmental authority or authorised body nominated for his State under paragraph 1 of Rule 8 such information as may be necessary for this purpose.

4. The Member States agree to cooperate fully with the Secretary-General in the foregoing provisions of this Rule.

Rule 11 - Sanctions

1. Member States undertake to introduce legislation, making such provision as may be necessary for penalties against persons who, in their State, furnish or cause to be furnished a document which is untrue in a material particular in support of a claim in another Member State that goods should be accepted as eligible for Community tariff treatment. The penalties applicable shall be similar to those applicable in case of untrue declarations in regard to payment of duty on imports.

2. A Member State may deal with the offence out of court, if it can be more appropriately dealt with by a compromise penalty or similar administrative procedure.

3. A Member State shall be under no obligation to institute or continue court proceedings, or action under paragraph 2 of this Rule:

(a) if it has not been requested to do so by the importing Member State to which the untrue claim was made; or

(b) if, on the evidence available, the proceedings would not be justified.

(c)

SCHEDULE II

MARKETING ARRANGEMENTS FOR UNREFINED CANE SUGAR

1. Any Member State in which unrefined cane sugar is produced may, subject to paragraph 2 and consistently with any international obligations to which it is subject, apply any quantitative restriction within the meaning of Article 87 on imports into that State of unrefined cane sugar from any other part of the Community.

2. Any Member State taking measures in accordance with paragraph 1 shall notify them to COTED, if possible before they come into force.

SCHEDULE III

DEVELOPMENT OF THE OILS AND FATS SUB-SECTOR

Preamble

The Member States:

Recognising that it is their policy to -

(i) enhance the long-term viability of the regional oils and fats industry;

(ii) facilitate the regional marketing of oils produced from indigenous raw materials;

(iii) encourage the development and marketing of a wider range of competitive value-added products especially in the less developed countries;

(iv) encourage the role of the private sector in determining the conduct of the trade,

Have agreed as follows:

Part I
Preliminary

1. Use of Terms

In this Schedule, unless the context otherwise requires:

"ancillary" means any substance actually required to be used in conjunction with oils and fats in the process leading to a finished product but which cannot be used as a substitute for oils and fats produced within the Community and which is ... included in Appendix I to this Schedule;

"(Intra-Regional)Price" means the f.o.b. price of raw materials, refined edible oil and hydrogenated edible fats, when exported from one Member State to another;

"oils and fats" means oilseeds, their seedlings and intermediate or final products including margarine, shortening and soaps in the form of toilet and laundry derived therefrom, provided those oilseeds and seedlings qualify as being of Community Origin;

"raw materials" means copra and other oilseeds, and unrefined oils qualifying as being of Community Origin;

... "substitute" means commodities listed in Appendix II to this Schedule which are put to similar use as, and are in commercial competition with, oils and fats.

2. Objectives

(a) to support and encourage the viability and expansion and diversification of the Oils and Fats Sub-Sector in the Community;

(b) to promote intra-regional trade in oils and fats and exports to third countries;

(c) to increase competitiveness of the Oils and Fats Sub-Sector;

(d) to improve and promote the production of traditional and non-traditional oilseeds within the Community.

Part II
Scope of the Schedule

3. The intra-Community reference price of copra and coconut oils shall be determined as a result of consultations and negotiations by a Committee of Buyers and Sellers at the Meeting of representatives of Member States (hereinafter called "the

Conference on Oils and Fats"). The resultant prices would be presented by the Committee of Buyers and Sellers to the Conference on Oils and Fats for acceptance and notification to COTED.

4. COTED, on the recommendation of the Conference on Oils and Fats, shall endorse the intra-Community reference price for the ensuing year in respect of:

(a) copra, which shall be expressed as an f.o.b. price in buyers' containers;

(b) unrefined coconut oil, which shall be expressed as an f.o.b. price in buyers' containers.

5. (1) The Committee of Buyers and Sellers shall undertake consultations and negotiations to determine -

(a) the quantities of copra and coconut oil to be purchased and sold by respective buyers and sellers present at the Meeting of the Conference on Oils and Fats;

(b) the period and other particulars under which the transactions at (a) shall be made;

(2) The determination of the Committee of Buyers and Sellers with respect to (a) and (b) shall be presented to the Conference on Oils and Fats for acceptance;

(3) The Conference on Oils and Fats shall notify COTED of the quantities of copra and coconut oil to be traded, the period over which the trade shall be undertaken and other relevant particulars relating to purchase and sale of coconut oil in the Community;

(4) In the determination of the quantities of coconut oil to be supplied by the sellers, the Committee of Buyers and Sellers shall give consideration to information on the availability of copra and coconut oil from the less developed countries.

6. COTED shall, as necessary, determine the conditions for intra-regional trade in oils and fats, other than coconut oil.

7. COTED shall, as necessary, determine the conditions for the importation and exportation of substitutes.

8. Importation of ancillaries shall be free from restriction.

Part III
Implementation of the Schedule

9. (1) Member States shall, not later than 31 January in every year, submit to the Secretary-General in such form as COTED may, from time to time prescribe, its estimates of production, domestic consumption requirements, exports and imports in respect of such oils and fats and substitutes as may be determined by COTED.

(2) Member States shall provide the Secretary-General, upon request, with such other information as may be required in order to monitor the operation of this Schedule.

10. The Secretary-General, on the basis of information supplied by Member States, shall keep the Member States informed of production and supply capabilities.

11. The Meeting of the Conference on Oils and Fats shall be convened by the Secretary-General at least once per year.

12. The Secretary-General shall, at the request of a Member State, and with the concurrence of the majority of the Member States, convene a Special Meeting of the Conference on Oils and Fats.

13. (1) The Conference on Oils and Fats shall consist of one delegate (with such advisers as may be considered necessary) to be nominated by each Member State.

(2) Private sector and other organisations, including the farming community, shall be invited to participate as observers at Meetings of the Conference on Oils and Fats.

(3) Every Meeting of the Conference on Oils and Fats shall elect its Chairman;

(4) At every Meeting of the Conference on Oils and Fats, the delegates of six Member States, including two MDCs, shall form a quorum;

(5) At Meetings of the Conference on Oils and Fats, private sector representatives shall play a more active role in the deliberations through the participation of buyers and sellers. In this regard, the Conference on Oils and Fats shall facilitate the establishment of a Committee of Buyers and Sellers of Copra and Coconut Oil to engage in consultations and negotiations to determine the prices and quantities governing trade in selected oils and fats.

(6) The Chairman of the Committee of Buyers and Sellers shall submit conclusions to the Conference on Oils and Fats for acceptance.

(7) Every Meeting of the Conference on Oils and Fats shall be serviced by the Secretariat.

(8) Recommendations of the Conference on Oils and Fats shall be submitted to COTED for its approval.

14. (1) The Conference on Oils and Fats shall -

(a) review the operation of this Schedule;

(b) consider any matter relating to this Schedule referred to the Conference on Oils and Fats by any Member State or any Organ or Body of the Community;

(c) review regional and international developments affecting the Oils and Fats Sub-Sector;

(d) make recommendations to support and promote the growth and development of the Oils and Fats Sub-Sector.

(2) Recommendations emanating from 14(c) and (d) shall be submitted to COTED and Ministers with responsibility for Agriculture for consideration and appropriate action.

15. Member States shall be responsible for the administration of the provisions of this Schedule within their respective countries and, for that purpose, shall enact the necessary legislative or other measures required to give effect to the provisions of this Schedule.

16. Where COTED is satisfied that the action taken by a Member State is not in compliance with the provisions of this Schedule and is likely to prejudice any benefits likely to be derived by another Member State, COTED may recommend measures intended to ameliorate any damage or institute any corrective measures or apply any appropriate sanctions.

17. COTED may, by unanimous decision, recommend the amendment of the provisions of this Schedule or the substitution of a new Schedule therefor.

Part IV
Regulation of Inputs in the Community

18. The Member States shall apply the rate of duty set by COTED on all imported oils, fats and their substitutes.

19. (1) (a) In the event of insufficient supply, the Secretary-General acting on behalf of COTED may grant a suspension of the Common External Tariff in accordance with Article 72 of the Treaty.

(b) In determining the adequacy of supply, the Secretary-General shall take into consideration the allocation and provisions which obtain under this Schedule.

(2) (a) The Secretary-General may issue a certificate under the Safeguard Mechanism of the Rules of Origin in accordance with Article 73 of the Treaty, in the event of insufficient supply of inputs used in the manufacture of oils and fats products.

(b) In determining the adequacy of supply, the Secretary-General shall take into consideration the guidelines established by the Conference of Oils and Fats and COTED.

20. The Member States may use automatic licences to monitor imports of oils and fats especially where other methods prove inadequate.

21. No Member State shall use non-automatic licences to regulate or restrict the imports of oils and fats except under paragraph 22.

22. (1) If any Member State considers that-

(a) its oils and fats processing industry is being injured as a result of a substantial decrease (10 per cent for LDCs and 25 per cent for MDCs) in internal demand for a domestic product; and

(b) this decrease in demand is due to an increase in imports consigned from other Member States,

that Member State shall take remedial measures in accordance with Chapter V of this Treaty;

(2) Where in the Community, especially in any of the LDC Member States, a difficulty arises from the importation of oils, fats or their substitutes from third countries, the affected Member State shall, notwithstanding the provisions identified at paragraph 18, 19 and 21, use non-automatic licences and quantitative restrictions in accordance with its international obligations.

APPENDIX I TO
SCHEDULE III

ANCILLARIES

Aluminum Sulphate
Animal Grease
Animal Tallow
Anti-Spattering Agents
Anti-Oxidants
Antiseptics
Bacteriacides and Disinfectants
Bleaching Aids and Materials
Calcium Chloride
Calcium Michel

Caustic Potash
Caustic Soda
Colouring Matter and Dyes
Citric Acid
Emulsifiers
Fatty Acids
Mineral Salts
Oleo Stearines
Organic Acids
Phosphate and Zinc Oxide
Preservative
Resin
Silicate of Soda
Ferric Chloride
Filter Aids and Materials
Flavours and Flavouring Materials
Flourescers
Hexane
Hydrochloric Acid Hydrogenated Fats
Hydrogenated Oils
Cotton Seed, Bleaching Earth
Soyabean, Palm Kernel, Groundnut
Palm, Whale, Fish or other Oils of a similar kind
Castor Oil
Lanolin
Milk Powders and Cultures
Mineral Acids
Soap Perfumes
Soda Carbonate
Sodium Hydrosulphate
Sodium Sulphate
Sulphuric Acid
Titanium Dioxide
Vitamin Concentrates
Water Softeners
Salt

APPENDIX II TO
SCHEDULE III

Substitutes

Oilseeds which do not qualify as being of Community Origin under the provisions of Article 84.

Vegetable oils refined or unrefined, derived from materials in the above category.

Edible tallow or edible stearines.

Soaps including all soaps in block, bar, tablet or powdered form not produced within the Community.

Margarine and shortening which do not qualify as being of Common Market Origin under the provisions of Article 84.

Compound Lard.

Pure Lard.

SCHEDULE IV

PROTECTION OF GUYANESE PETROLEUM PRODUCTS

1. Special arrangements to facilitate the establishment of a petroleum refining industry in Guyana are provided in this Schedule.

2. Notwithstanding anything in this Chapter, any quantitative restriction within the meaning of Article 87 thereof may, during any period for which the Government of Guyana is a party to any protective agreement in that behalf relating to petroleum product produced in Guyana, be applied on imports into Guyana of that petroleum product from any other part of the Community.

Provided that no such restriction shall be so applied on imports of any petroleum product, other than Bunker C, asphalt or road oil during any year except with a view to preventing the importation of that petroleum product into Guyana to any extent in excess of:

(a) one third of such amount of that petroleum product as is reasonably considered by the Government of Guyana to be marketable in Guyana during such year; or

(b) the difference between such amount of that petroleum product as is reasonably considered by the Government of Guyana to be marketable in Guyana during such year and any lesser amount of that petroleum product which is reasonably considered by the said Government to be productible in Guyana during such year,

whichever is more.

3. During any period first hereinbefore in this Article referred to in connection with a petroleum product produced in Guyana, customs duties shall, at rates not lower than those in force when the CARICOM Single Market and Economy enters into force,be applicable to any permitted imports into Guyana of that petroleum product from outside the Community.

4. Not later than -

(a) the commencement, during any year, of any period mentioned in paragraph 3 of this Schedule;

(b) the commencement, during any such period, of any year,

Guyana shall notify to COTED the amounts mentioned in paragraph (b) of the proviso to paragraph 2 of this Schedule in relation to that year and shall at the request of any Member State, inform COTED in strictest confidence of the reasons for arriving at any such amounts.

5. In this Schedule "that petroleum product" includes any like or substitutable petroleum product.

6. These provisions shall not have effect for longer than 15 years from the commencement of a period mentioned in paragraph 3 of this Schedule.

SCHEDULE V

GOVERNMENT ASSISTANCE

(a) The provision by governments of direct subsidies to a firm or an industry contingent upon export performance.

(b) Currency retention schemes or any similar practices which involve a bonus on exports.

(c) Internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favourable than for domestic shipments.

(d) The Provision by governments or their agencies either directly or indirectly through government-mandated schemes, of imported or domestic products or services for use in the production of exported goods, on terms or conditions more favourable than for provision of like or directly competitive products or services for use in the production of goods for domestic consumption, if (in the case of products) such terms or conditions are more favourable than those commercially available on world markets to their exporters.

(e) The full or partial exemption remission, or deferral specifically related to exports, of direct taxes or social welfare charges paid or payable by industrial or commercial enterprises.

(f) The allowance of special deductions directly related to exports or export performance, over and above those granted in respect to production for

domestic consumption, in the calculation of the base on which direct taxes are charged.

(g) The exemption or remission, in respect of the production and distribution of exported products, of indirect taxes in excess of those levied in respect of the production and distribution of like products when sold for domestic consumption.

(h) The exemption, remission or deferral of prior-stage cumulative indirect taxes on goods or services used in the production of exported products in excess of the exemption, remission or deferral of like prior-stage cumulative indirect taxes on goods or services used in the production of like products when sold for domestic consumption, provided, however, that prior-stage cumulative indirect taxes may be exempted, remitted or deferred on exported products even when not exempted, remitted or deferred on like products when sold for domestic consumption in the production of the exported product (making normal allowance for waste).

(i) The remission or drawback of import charges in excess of those levied on imported inputs that are consumed in the production of the exported product (making normal allowance for waste); provided, however, that in particular cases a firm may use a quantity of home market inputs equal to, and having the same quality and characteristics as, the imported inputs as a substitute for them in order to benefit from the provision if the import and the corresponding export operations both occur within a reasonable time period, not to exceed two years.

(j) The provision by governments (or special institutions controlled by governments) of export credit guarantee or insurance programmes, of insurance or guarantee programmes against increases in the cost of exported products or of exchange risk programmes, at premium rates which are inadequate to cover the long-term operating costs and losses of the programmes.

(k) The grant by governments (or special institutions controlled by and/or acting under the authority of governments) of export credits at rates below those which they actually have to pay for the funds so employed (or would have to pay if they borrowed on international capital markets in order to obtain funds of the same maturity and other credit terms and denominated in the same currency as the export credit), or the payment by them of all or part of the costs incurred by exporters or financial institutions in obtaining credits, in so far as they are used to secure a materials advantage in the field of export credit terms,

provided, however, that if a Member is a party to an international undertaking on official export credits to which at least twelve original members to this Agreement are parties as of 1 January 1979 (or a successor undertaking which has been adopted by those original member), or if in practice a member applies the interest rates provisions of the relevant undertaking an export credit practice which is in conformity

with those provisions shall not be considered an export subsidy prohibited by this Agreement.

(l) Any other charge on the public account constituting an export subsidy in the sense of Article XVI of GATT 1994

Notes

1. The product coverage is the same as that of the WTO Agreement on Agriculture.

Part Four

Functional Co-operation Regimes

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THE CARIBBEAN ENVIRONMENTAL HEALTH INSTITUTE

Long before the Conference of Ministers responsible for Health made the Declaration on Health in 1977, it was generally recognised that sustainable economic development required protection and preservation of the environment which provided the natural resources component of the regional development process. In the Caribbean region, efficient management of the environment is perceived to require a cross-sectoral approach, given the interdependence of activities in the most productive sectors of the regional economy namely agriculture, tourism, mining, fisheries and manufacturing. Unless economic activities in any of these sectors are efficiently regulated, negative consequences for the environment may be occasioned with adverse implications for productivity in one or another sector. Furthermore, the environment of the political entities inherited by the political directorate of the Commonwealth Caribbean in the post-federation period, had already suffered from severe environmental degradation occasioned by both the vicissitudes of history and natural disasters. The physical beauty of the Caribbean region belies much of the environmental degradation experienced over the centuries and the imperative of survival in an intensely competitive world economy has influenced governments to promote economic activities which threaten the integrity of the environment with irreparable impairment.

This was the context in which competent decision-makers in the 1970s recognised the need for a regional organisation to stimulate, coordinate and play a catalytic role in environmental management and environmental health, particularly in the areas of manpower development, project development, information collection and dissemination and applied research. The Caribbean Environmental Health Institute was the institutional expression of this environmental consciousness. Subsequently, the Ministers of the Environment at their first meeting in Port-of-Spain in 1989, issued the Port-of-Spain Accord which identified environmental problems of urgent and immediate concern and which basically corresponded to the areas identified in the proposed Environmental Action Plan for Latin America and the Caribbean elaborated by the United Nations Environmental Programme Secretariat. These were problems associated with natural resources management (deforestation; watershed management; soil erosion, degradation and loss; agricultural pesticide control; degradation of marine and coastal resources); problems linked to environmental quality (housing and human settlements; air and noise pollution; vector control and preservation of indigenous historical and archaeological resources); and problems of global concern (climate change; ozone depletion; preservation of genetic resources and transboundary movements of hazardous

wastes). All of these concerns come within the remit of the Institute to a greater or lesser degree.

The Institute is composed of a Governing Body, a Board of Directors, an Executive Director and other support staff. As in the case of CARDI, the crafters of the constituent instrument of CEHI, constituted a Ministerial body of the Caribbean Community - the Conference of Ministers Responsible for Health - the Governing Body of the Institute. The Board of Directors consisted of one member each nominated by the Governments of Barbados, Guyana, Jamaica, St. Lucia, Trinidad and Tobago, Grenada and St. Vincent jointly, Antigua and Dominica jointly, Bahamas and Bermuda jointly, Belize, Montserrat and St. Kitts-Nevis-Anguilla jointly, the Chairman, the Executive Director as an *ex officio* member and a representative each from the University of the West Indies, the University of Guyana, the Pan American Health Organisation/World Health Organisation and the United Nations Environment Programme.

The objectives of the Institute are extensive and include the provision of technical and advisory services to Member States in all areas of environmental management including water supplies, liquid waste and excreta disposal, solid waste management, water resources management, coastal zone management including beach pollution, air pollution, occupational health, vector control, agricultural pollution, pesticides control, disaster prevention and preparedness, natural resource conservation, environmental institutional development and the socio-economic aspects of environmental management The Institute also promotes and collaborates in the planning and programming of symposia, workshops and on-the-job training in Member States; conducts courses, seminars, symposia and workshops and arranges and accepts grants for financing scholarships and fellowships to facilitate training of nationals of Member States. The Institute acts as a regional reference centre for the collection and dissemination of relevant technical and scientific information and as a focal point for various environmental monitoring networks for the collection and dissemination of relevant information. The Institute promotes and coordinates applied research in environmental problems identified by Member States; promotes uniformity in professional practice, design standards and technical methods in programmes formulated for the improvement of environmental health and management and also promotes activities to facilitate implementation of the environmental health strategy.

The Headquarters of the Institute is located in St. Lucia, but the Institute may establish branches or research stations in other Member States. The Institute possesses full juridical personality and the legal status and capacity in Member States necessary for the fulfilment of its objectives and the performance of its functions, including the capacity to contract, acquire and dispose of moveable and immoveable property and to institute legal proceedings. It is assumed that in any such proceedings the Institute will be represented by the Executive Director. Provision is not made for the Institute and representatives of Member States on official business of the Institute to be accorded privileges and immunities. And although the Executive Director, officials of the Institute and experts performing missions for the Institute are accorded immunity from legal process with respect to official functions and certain other privileges and immunities normally accorded to persons of similar positions in intergovernmental organisations, provision is not expressly made for exemption from the payment of income tax and customs duties on imports for official or personal use.

Disputes between the Institute and Member States or representatives are to be settled by arbitration.

AGREEMENT ESTABLISHING THE CARIBBEAN ENVIRONMENTAL HEALTH INSTITUTE

The contracting parties:

Seized with a common determination to improve the environmental health standards and consequently the quality of life of the people of the Caribbean Region, as articulated in the 1977 Declaration on Health of the Conference of Ministers Responsible for Health;

Recognising the need for a regional organisation to stimulate, coordinate and play a catalytic role in environmental management and environmental health, particularly in the areas of manpower development, project development, information collection and dissemination, and applied research;

Aware that a regional approach to the solution of environmental problems will not only be more cost effective but also aid the integration effort in a meaningful manner;

Convinced that the establishment of a regional institution for environmental management , with emphasis on environmental health, will expedite work on programmes designed to achieve the stated goals;

Hereby agree as follows:

Article 1
Establishment

The Caribbean Environmental Health Institute (hereinafter referred to as "the Institute") is hereby established, having the membership, powers and functions hereinafter specified.

Article 2
Membership

1. Membership of the Institute shall be open to -
   (a) States listed in the Annex to this Agreement;
   (b) Any other State of the Caribbean Region which becomes a Member or Associate Member of the Caribbean Community;
   (c) Any other State of the Caribbean Region approved by the Governing Body of the Institute.

2. The States listed in the Annex to this Agreement, the Governments of which sign the Agreement in accordance with Article 19, and ratify it in accordance with Article 20, shall become members of the Institute.

Article 3
Objectives of the Institute

1. The objectives of the Institute shall be:-

(a) to provide technical and advisory services to member States in all areas of environmental management, including water supplies, liquid waste and excreta disposal, solid waste management, water resource management, coastal zone management including beach pollution, air pollution, occupational health, vector control, agricultural pollution and pesticides control, disaster prevention and preparedness, natural resource conservation, environmental institution development and the socio-economic aspects of environmental management;

(b) to prepare and keep inventories of:-

(i) education and training programmes especially those in related disciplines;

(ii) regional experts and other manpower resources;

(c) to promote and collaborate in the planning and programming of symposia, workshops and on-the-job training in Member States;

(d) to conduct courses, seminars, symposia and other workshops at either the Institute or other selected regional institutions;

(e) to arrange and accept grants for financing scholarships and fellowships to facilitate the training of nationals of Member States;

(f) to act as:-

(i) a regional reference centre for the collection and dissemination of technical and scientific information;

(ii) a focal point for various environmental monitoring networks for the collection and dissemination of environmental data, especially health-related, in the Caribbean Region;

(g) (i) to promote and co-ordinate applied research relevant to the environmental problem of the Caribbean Region as identified by Member States;

(ii) to stimulate the provision of engineering, public health laboratory and other related environmental services for Member States, or groups of Member States in accordance with their desires;

(iii) to promote uniformity in professional practice, design standards, and technical methods in programmes formulated for the improvement of environmental health and environmental management;

(h) to promote activities which will facilitate the implementation of the Environmental Health Strategy.

2. For the purposes of this Article, the Institute may take such action as may be necessary or expedient for the attainment of its objectives and the performance of its functions.

Article 4
Structure of the Institute

The Institute shall have the following:

(a) a Governing Body;

(b) a Board of Directors with a Chairman and Deputy Chairman;

(c) an Executive Director;

(d) such other officers and staff as may be necessary.

Article 5
Governing Body of the Institute

1. The Conference of Ministers Responsible for Health (hereinafter referred to as "the Conference") shall be the Governing Body of the Institute.

2. Without prejudice to the generalities of paragraph 1 of the Article, the Conference shall have the power to:-

(a) give general or specific policy directions to the Board of Directors;

(b) appoint an Executive Director after it has considered the recommendation of the Board of Directors;

(c) appoint the Chairman of the Board of Directors;

(d) authorise agreements to be entered into with other countries, international agencies and entities;

(e) approve the budget of the Institute to be prepared annually for the following three (3) financial years;

(f) approve the work programme annually for the next following three (3) financial years.

Article 6
Membership of the Board

1. The composition of the Board of Directors (hereinafter referred to as "the Board") shall be as follows:-

(a) One member nominated by:-

(i) the Government of Barbados;

(ii) the Government of Guyana;

(iii) the Government of Jamaica;

(iv) the Government of Saint Lucia;

(v) the Government of Trinidad and Tobago;

(vi) the Governments of Grenada and St. Vincent;

(vii) the Governments of Antigua and Dominica;

(viii) the Governments of Bahamas and Bermuda;

(ix) the Governments of Belize, St. Christopher-Nevis-Anguilla, and Montserrat;

(x) the Caribbean Development Bank;

(xi) the Caribbean Community Secretariat;

(b) the Chairman;

(c) a representative from:-

(i) the University of the West Indies;

(ii) the University of Guyana;

(iii) the Pan American Health Organisation/World Health Organisation;

(iv) the United Nations Environment Programme;

(d) the Executive Director ex-officio.

2. Subject to the provisions of paragraph 2 of Article 8, the Chairman and the Executive Director, together with the representatives of the Caribbean Community Secretariat, University of the West Indies, University of Guyana, Pan American Health Organisation/World Health Organisation, United Nations Environment Programme and the Caribbean Development Bank, shall sit as non-voting members of the Board.

3. (a) Alternate Directors shall be appointed by the appropriate authorities in accordance with paragraph 1 above.

(b) Directors and Alternate Directors shall be persons of integrity and high competence preferably with wide professional experience in Environmental Health, Environmental Management, or Community Health with respect to practice, administration or research and shall be selected with due regard to the principles of equitable geographical distribution.

4. Directors shall hold office for a term of three years and shall be eligible for reappointment for not more than another term in succession. They shall continue in office until their successors shall have been appointed and assumed office. If the office of a Director becomes vacant before the expiration of his term of office, the vacancy shall be filled by a new Director who shall be appointed in the same manner as his predecessor and he shall hold office for the remainder of the term of office of his predecessor.

Article 7
Functions and Powers of the Board Of Directors

1. The Board of the Institute shall be responsible, subject to any directions of the Conference, for the general operation of the Institute. It shall implement the general policies of the Institute and may give the Executive Director general instructions for the implementation of such policies.

2. Without prejudice to the functions specified in paragraph 1 of this Article, the Board shall:-

(a) make recommendations to the Conference in respect of the appointment of the Executive Director;

(b) receive and may approve the annual report of the Executive Director, which shall include the financial report;

(c) make recommendations for the approval annually by the Conference of the work programmes for the next following three financial years;

(d) make recommendations for the approval by the Conference of Estimates of Expenditure and the audited accounts of the Institute;

(e) assist the Executive director in seeking the support and resources necessary for the fulfilment of the objectives of the Institute;

(f) except as is otherwise provided exercise control over appointments, and termination of appointments;

(g) cause to be kept appropriate books of account, which shall be audited at least once a year by an auditor who shall be a qualified and independent accountant appointed by the Board and shall also cause to be prepared annual audited statements showing in detail the income and expenditure of the Institute and the assets and liabilities as they stood at the end of the immediate preceding financial year;

(h) carry out such other functions as the Conference may delegate to it from time to time.

3. The Board may delegate to the Executive Director such of its functions as it thinks fit, provided that no such delegation shall preclude the Board from so acting at any time it thinks fit, without prejudice however to anything done by the Executive Director under that delegation.

4. The Board may also appoint a Technical Advisory Committee to assist in discharging its responsibilities if this is considered necessary.

Article 8
Meetings of the Board

1. The Board shall meet at least twice a year or as often as the business of the Institute may require. A majority of Directors entitled to vote shall constitute a quorum for any Meetings of the Board.

2. Each Director entitled to vote shall have one vote and the Chairman shall have a casting vote only.

3. Subject to this Agreement, the Board shall regulate its own procedure.

Article 9
Chairman of the Board

1. The Chairman of the Board shall be appointed by the Conference after considering the recommendation of the Board.

2. The Chairman of the Board while holding office shall not be a Director or Alternate Director appointed by a Member State or any Body which is represented on the Board.

3. The term of office of the Chairman shall be for three years and he shall be eligible for reappointment.

4. The Deputy Chairman shall be elected by the Board from among its members.

Article 10
The Executive Director

1. The duties of the Executive Director shall include:-

(a) the day-to-day management and control of the Institute;

(b) the control of the expenditure of the funds of the Institute within the approved estimates;

(c) the performance of such functions of the Board as may be delegated to him;

(d) the organisation of special programmes and projects in furtherance of the objectives of the Institute;

(e) ensuring that the correct procedures are followed with respect to all matters within the competence of the Institute;

(f) representation, either personally, or by a nominee appointed by him, upon such Authorities, Boards or Committees of the Caribbean Community as may be agreed on with the Community;

(g) the submission of an annual report to the Board;

(h) preparation annually for approval by the Board of work programmes for the next following three financial years;

(i) preparation annually for the approval by the Board of Directors, of estimates of expenditure for the next following financial year.

2. In the absence or the incapacity of the Executive Director or while that office is vacant, the Board shall make suitable arrangements for the carrying out of the duties of the Executive Director and shall submit such arrangements for the approval of the Conference.

Article 11
Staff of the Institute

1. The Institute shall appoint such members of its staff in accordance with the estimates approved by the Conference as are necessary for the performance of its functions.

2. All staff appointments shall be made subject to the terms and conditions of service determined by the Board.

Article 12
Revenue

The revenue of the Institute shall be derived from:-

(a) the annual contributions of Member States;

(b) such contributions as may be made by other States or agencies whether within outside the Region;

(c) such grants as may be made from any source for the financing of applied research, information collection and dissemination, manpower development, advisory services, engineering projects, fellowships, holding of symposia, courses or for any other purpose consistent with its objectives as set out in Article 3;

(d) such fee as may be determined from time to time by the Board as fees payable to the Institute;

(e) payments made to the Institute in consideration of consultancy services provided through the Institute;

(f) income from any other sources.

Article 13
Location of the Institute

1. The Headquarters of the Institute shall be located in Saint Lucia.

2. The Secretary-General of the Caribbean Community Secretariat shall negotiate suitable arrangements with the Government of Saint Lucia for the establishment of the Headquarters of the Institute at the Research and Control Department, Morne Fortune.

3. The conclusion of such arrangements shall be subject to the approval of the Conference.

4. The Institute may establish in any Member State such other branch or research stations as may be deemed necessary by the Board.

Article 14
Relations with Regional or National
Teaching Institutions or Research Centres

The Institute shall seek such affiliation with regional or national teaching or research centres as will promote the achievement of its objectives.

Article 15
Legal Status

1. The Institute shall possess full juridical personality.

2. The Institute shall enjoy in each Member State such legal status and legal capacity as may be necessary for the fulfilment of its objectives and the exercise of its functions. In particular the Institute shall have the capacity to:-

(a) contract;

(b) acquire and dispose of movable and immovable property;

(c) institute legal proceedings.

3. The Institute shall enjoy in each Member State such privileges and immunities as may be necessary for the fulfilment of its objectives and the exercise of its functions.

In particular, property and assets of the Institute wheresoever located, and by whomsoever held, shall be immune from either confiscation or expropriation.

4. The Institute may cooperate with international organisations active in similar fields and may seek all appropriate contacts with a view to cooperating with other Institutions in similar fields.

Article 16
Immunities and Privileges of Institute Personnel

The Executive Director and other officials and employees of, and experts performing missions for, the Institute:-

(a) shall be immune from legal process with respect to acts performed by them in their official capacity;

(b) except in the countries of which they are citizens, shall be accorded such immunities from immigration restrictions, alien registration requirements and national service obligations, and such facilities as regards exchange control, as are not less favourable than those accorded by the participating Governments concerned, to the representatives, officials, and employees of diplomatic missions of comparable rank.

Article 17
Disputes

1. If a dispute should arise between the Institute and a Member State or any of the Authorities represented on the Board, such dispute shall be submitted to arbitration by a Tribunal of three Arbitrators. Each party shall appoint one arbitrator and the two arbitrators shall appoint a third who shall be Chairman. If within 30 days of the request for arbitration either party has not appointed an arbitrator, or if within 15 days of the appointment of the second arbitrator, the third arbitrator has not been appointed either party may request the Secretary-General of the Caribbean Community Secretariat to appoint an arbitrator.

2. The procedure of the arbitration shall be fixed by the arbitrators. However, the third arbitrator shall be empowered to supply all rules of procedure in any case of disagreement with respect thereto.

3. The majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding upon the parties.

Article 18
Implementation

Member States shall take all steps necessary for the implementation of this Agreement.

Article 19
Signature

This Agreement shall be deposited with the Secretariat of the Caribbean Community (hereinafter referred to as "the Depositary") and shall be open for signature until the

entry into force of this Agreement, by any of the States listed in the Annex to this Agreement (hereinafter referred to as "the Annex").

Article 20
Ratification

This Agreement shall be subject to ratification by the signatories in accordance with their respective constitutional procedures. Amendments to the Agreement shall likewise be subject to ratification by all Member States. Instruments of Ratification shall be deposited with the Depositary which shall transmit copies to each Member State.

Article 21
Entry into Force

This Agreement shall enter into force by the deposit of the Instruments of Ratification in accordance with Article 20 by six of the States listed in the Annex including any three out of Barbados, Guyana, Jamaica and Trinidad and Tobago and three out of the remaining States listed in the Annex.

Article 22
Accession

1. Any State listed in the Annex which, upon the entry into force of this Agreement has not signed this Agreement in accordance with Article 19 and which wishes to become a Member after that date may accede to the Agreement by deposit of appropriate Instruments of Accession with the Depositary.

2. Any State other than States listed in the Annex which becomes a Member or Associate Member of the Caribbean Community or any other State of the Caribbean Region approved by the Governing Body of the Institute may accede to the Agreement.

3. Admission to membership under paragraph 2 of this Article shall be upon such terms and conditions as the Conference may decide and shall take effect from the date on which the appropriate Instrument of Accession is deposited with the Depositary.

Article 23
Amendment

1. Any member State may make proposals for amending this Agreement. Such proposals shall be submitted to the Conference for its approval through the Depositary.

2. Any proposed amendment that is approved by the Conference shall be submitted to each Member State for ratification.

3. Any such amendment shall enter into force upon the deposit of the Instruments of Ratification by all Member States.

Article 24
Withdrawal

1. Any Member State may withdraw from this Agreement by giving not less than 12 months notice in writing to the Depositary which shall forthwith notify other Member States.

2. A Member State withdrawing undertakes to honour any financial obligations duly assumed during its participation in this Agreement.

Article 25
Inaugural Meeting

As soon as this Agreement enters into force, each Member State together with the authorities represented on the Board shall appoint a Director of the Board in accordance with Article 6, and the Secretary-General of the Caribbean Community Secretariat shall convene the Inaugural Meeting of the Board of Directors.

(Article 2)

ANNEX

LIST OF STATES

Antigua
Bahamas
Barbados
Belize
Bermuda
Cayman Islands
Commonwealth of Dominica
Grenada
Guyana
Jamaica
Montserrat
St. Christopher-Nevis-Anguilla
Saint Lucia
St. Vincent and the Grenadines
Trinidad and Tobago
Turks and Caicos Islands
Virgin Islands (British)

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have affixed their signatures to this Agreement.

Done at Georgetown, this 10th day of July, One thousand nine hundred and eighty in a single copy which shall be deposited with the Caribbean Community Secretariat which shall transmit certified copies to all the Contracting States.

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THE CARIBBEAN REGIONAL DRUG TESTING LABORATORY

Within recent years two developments have conspired to justify regional initiatives to establish on a collective basis a laboratory for the testing of drugs, both legal and proscribed. On the one hand, it has long since been recognised that the Governments of the Region had a responsibility to their peoples to ensure that pharmaceutical drugs conform with the appropriate standards of purity, strength and quality and as a consequence relevant drug control agencies should have laboratories for the testing of drugs. The establishment of drug testing laboratories has been made desirable by the practice of transnational pharmaceutical companies headquartered in developed countries of dumping sub-standard drugs in developing countries with damaging effects to their populations. On the other hand, the emergence of the Caribbean as an important transit point for illegal drugs, especially cocaine and marijuana issuing from South America and the Caribbean and destined for Europe and North America, has aggravated the illegal drug traffic and increased the demand for forensic evidence to prosecute drug traffickers. Currently, the Caribbean region is second only to Sub-Saharan Africa in the incidence of AIDS and the cost of non-generic drugs to fight this scourge has become a drain on national treasuries which have to take appropriate measures to ensure that the claims made for relevant pharmaceutical drugs are justified in terms of purity, quality and effects. At the same time the size of the populations in the Caribbean Community nation states does not justify the establishment of laboratory facilities in every jurisdiction - hence the Regional Drug Testing Laboratory.

The functions of the Caribbean Regional Drug Testing Laboratory have been identified as carrying out microbiological and pharmacological tests on samples of drugs submitted by participating Governments and reporting the results thereof; performing biological availability tests on selected types of drugs; investigating the stability of drugs under conditions of storage in the Caribbean, and liaising with all appropriate agencies interested in drug testing and providing information and advisory services to support the activities of drug officials in the Region. The Regional Drug Testing Laboratory has a Technical Advisory Committee to advise the Director on all aspects of the operation of the Regional facility. The Technical Advisory Committee comprises representatives from Barbados, Guyana, Jamaica, and Trinidad and Tobago and two designated by the other Participating Governments. The personnel of the Laboratory consist of a Director and such other staff as may be required from time to time. The Government chemist of Jamaica serves as ex officio Director of the Laboratory.

Participating Governments undertake to ensure that samples sent to the Laboratory are handled and transported in a manner designed to avoid injury to them.

The Conference of Ministers of Health of the Caribbean Community determines the policy of the Laboratory acting on the advice of the Technical Advisory Committee and the Director. The Conference approves the staff rules and regulations governing the operation of the Laboratory. The Conference and the Technical Advisory Committee consider and approve the budget and annual work plan of the Laboratory. The Director has responsibility for the day to day operation of the Laboratory and must establish and maintain a proper accounting system in respect of the funds of the Laboratory.

The Laboratory enjoys in Participating Member States the juridical status and privileges and immunities required to effectively perform its functions and protect its assets wheresoever located and by whomsoever held in the jurisdiction of Participating Governments. The Director and officials of the Laboratory and experts performing missions for the Laboratory enjoy in Participating Member Countries immunity from legal process in respect of official acts. Except when they are nationals of Participating Member States, immigration restrictions, alien registration requirements, national service application and such facilities regarding exchange controls are not less favourable than those accorded to personnel of missions of comparable rank.

AGREEMENT ESTABLISHING THE CARIBBEAN REGIONAL DRUG TESTING LABORATORY

The participating governments,

Recognising the desirability of Governments assuring that drugs conform with appropriate standards of purity, strength and quality, and that the official drug control agencies should therefore have laboratories for testing drugs;

Aware of the need for the Governments of the Region to pool their resources for the financing of a Regional Drug Testing Laboratory;

Noting that the Third Caribbean health ministers Conference authorised the appointment of a Technical Advisory Committee which subsequently recommended establishment of a regional laboratory in Jamaica to conduct microbiological and pharmacological tests on drugs to complement the existing national laboratories already engaged in testing drugs by chemical procedures;

Have agreed as follows:

Article 1
Establishment of Caribbean
Regional Drug Testing Laboratory

By this Agreement the participating Governments establish the Caribbean Regional Drug Testing Laboratory (hereinafter referred to as "the laboratory") having the functions and duties hereinafter specified.

Article 2
Functions of the Laboratory

The laboratory shall:

(a) Perform microbiological and pharmacological tests on samples of drugs submitted by any participating Government and report the results thereof to that Government.

(b) perform biological availability tests on selected types of drugs.

(c) investigate the stability of drugs under the conditions of storage prevailing in the Region.

(d) establish liaison with all appropriate agencies interested in drug testing and provide information and advisory services to support the activities of the drug control officials in the Region.

Article 3
The Technical Advisory Committee

1. There shall be a Technical Advisory Committee (hereinafter referred to as "the Committee").

2. The Committee shall consist of one representative each from Barbados, Guyana, Jamaica and Trinidad and Tobago, two representatives from the other participating Governments and the Secretary-General of the Caribbean Community.

3. The representatives of Barbados, Guyana, Jamaica and Trinidad and Tobago shall be designated by the respective Governments. The two representatives from the other participating Governments shall be designated by those Governments..

4. The Committee shall be responsible for advising the Director on all aspects of the operation of the laboratory.

5. The Committee shall meet at least once in each year.

6. The cost of attendance of each representative to the Meeting of the Committee shall be borne by the Government or Governments which he represents, and the Caribbean Community Secretariat shall meet the expenses of its representative.

7. The Committee shall regulate its own procedure.

Article 4
Personnel of the Laboratory

1. The personnel of the laboratory shall consist of a Director and such staff as may be required from time to time.

2. The Government Chemist of Jamaica shall serve ex officio as Director of the Laboratory.

3. The Director, in consultation with the Committee, shall recommend for the approval of the Health Ministers Conference (hereinafter referred to as "the Conference") the professional staff necessary from time to time.

4. The Conference shall approve the staff rules and regulations governing the operation of the laboratory.

Article 5
Duties of the Director

1. The Director shall prepare an annual work plan of the laboratory at the beginning of each year. The work plan shall be submitted to the Committee for approval.

2. The Director shall oversee the work of the laboratory to ensure compliance with the approved work plan.

3. The Director shall prepare an annual report on the laboratory's work for the consideration of the Committee and the Conference.

Article 6
Location

The laboratory shall be located in Jamaica.

Article 7
Specification

The Government of Jamaica agrees to provide at its own expense suitable accommodation of at least 4000 square feet of space for the laboratory.

Article 8
Financial Arrangements

1. The cost of continuing services such as electricity, telephone and other utility services shall be the expense of the laboratory.

2. The participating Governments agree to meet all the expenses of the laboratory (such as are not covered by grants from external sources) as may be apportioned by the Conference from time to time.

3. The Director of the laboratory shall, in consultation with the Committee, prepare an annual budget for the approval of the Conference.

4. The Director shall establish and maintain a proper accounting system in respect of all the funds of the laboratory.

Article 9
Supporting Actions

1. The participating Governments agree to take the necessary measures to ensure that the drug samples sent by them to the laboratory are handled and transported in such manner as to avoid injury to the samples.

2. The participating Governments undertake to ensure the acceptance of the analytical reports from the laboratory as admissible evidence in any court of law.

3. The Government of Jamaica undertakes to ensure the prompt customs clearance of the samples and other materials shipped to the laboratory.

Article 10
Settlement of Disputes

1. Either party to a dispute as to the interpretation or application of this agreement may refer the dispute within forty days from the date of notifying the Secretariat of the existence thereof for arbitration by an arbitrator appointed by the parties from the list of arbitrators drawn up and maintained by the Secretary-General of the Caribbean Community. Where the parties to the dispute fail to agree on the appointment of such an arbitrator within the prescribed period, the Secretary-General shall notify the parties of the expiration of the prescribed period and within thirty days following the expiration of that period appoint an arbitrator from the said list.

2. The Secretary-General shall provide the arbitrator with such assistance and facilities as he may require.

Article 11
Legal Capacity

The laboratory shall enjoy in the territory of each participating Government such legal status and legal capacity as may be necessary for the effective performance of its functions.

Article 12
Immunities and Privileges

The laboratory shall enjoy in the territory of each participating Government such privileges and immunities as may be necessary for the effective performance of its functions. In particular property and assets of the laboratory wheresoever located and by whomsoever held, shall be immune from confiscation or expropriation.

Article 13
Immunities and Privileges of Laboratory Personnel

The Director, other officials and employees of, and experts performing missions for, the laboratory:

(a) shall be immune from legal process with respect to acts performed by them in their official capacity;

(b) except in the countries of which they are citizens or nationals, shall be accorded such immunities from immigration restrictions, alien registration requirements and national service obligations, and such facilities as regards exchange control as are not less favourable than those accorded by the participating Governments concerned to the representatives, officials and employees of diplomatic missions of comparable rank.

Article 14
Signature

This agreement shall remain open for signature by the countries listed in the Annex until the entry into force of the agreement.

Article 15
Ratification

This agreement and any amendment thereto shall be subject to ratification by the signatory Governments in accordance with their respective constitutional procedures. Instruments of ratification shall be deposited with the Caribbean Community Secretariat which shall transmit certified copies to each participating Government.

Article 16
Entry into Force

This agreement shall enter into force upon the ratification by six Governments listed in the Annex including the Governments of Barbados, Guyana, Jamaica and Trinidad and Tobago. The Secretary-General shall notify the participating Governments of the entry into force of this agreement.

Article 17
Accession

1. The Government of any country listed in the Annex which upon the entry into force of this agreement has not signed this agreement in accordance with Article 14 and who wishes to become a party to this agreement after that date may accede thereto by the deposit of the appropriate instruments of accession with the Caribbean Community Secretariat.

2. Any country of the Region, may after the entry into force of this agreement and being a member of the Caribbean Community, other than those States listed in the Annex, apply to the Conference to become a party to this agreement.

3. The Conference may admit such a country as is referred to in paragraph 2 of this Article on such terms and conditions as it deems fit and such admission shall take effect from the date on which an appropriate instrument of accession is deposited with the Secretary-General.

Article 18
Amendment

1. This agreement may be amended by all the participating Governments.

2. An amendment of this agreement shall enter into force after being ratified by all participating Governments.

3. Instruments of ratification shall be deposited with the Caribbean Community Secretariat which shall notify all participating Governments.

Article 19
Withdrawal

1. Any participating Government may withdraw from this agreement by giving not less than twelve months' notice in writing to the Caribbean Community Secretariat which shall forthwith notify other participating Governments.

2. A participating Government withdrawing undertakes to honour any financial obligations duly assumed during its participation in the agreement.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorised thereto by their respective Governments, have affixed their signatures to this agreement.

Done at Georgetown, this 16th day of December, One Thousand Nine Hundred and Seventy-Four,in a single copy which shall be deposited with the Commonwealth Caribbean Regional Secretariat which shall transmit certified copies to all the Contracting States.

ANNEX

The Government of ANTIGUA
The Government of THE BAHAMAS
The Government of BARBADOS
The Government of BELIZE
The Government of BRITISH VIRGIN ISLANDS
The Government of DOMINICA
The Government of GRENADA
The Government of GUYANA
The Government of JAMAICA
The Government of MONTSERRAT
The Government of ST. CHRISTOPHER-NEVIS-ANGUILLA
The Government of ST. LUCIA
The Government of ST. VINCENT
The Government of TRINIDAD AND TOBAGO

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THE CARIBBEAN METEOROLOGICAL ORGANISATION

From time immemorial competent decision-makers in the Region were concerned to establish a nexus between agricultural productivity and the weather. During the early years of settlement sugar cane was the principal crop and this required large amounts of water especially at the ratoon stage. Sugar cane was subsequently overtaken by cotton and tobacco but when competition from the American colonies became too strong, the planters had to revert to sugar cane and then to rice and bananas. All of these crops depended on the weather for production and drought often spelled ruin for the planter class. As agriculture became less competitive especially with heavy subsidies in Europe and America to agricultural production, decision-makers diversified into services, particularly tourism where the climate and beauty of the island chain in the Caribbean Sea gave the islands a distinct competitive advantage. During the colder months of winter in Europe and America the sun, sand and sea presented an alluring attraction to tourists. However, the position of the island chain of CARICOM directly in the path of hurricanes originating off the West Coast of Africa has made the islands' beauty to susceptible to destruction wreaked from the havoc these hurricanes have played. Other natural disasters common in the Region like volcanoes and floods have also made their contribution to the degradation of the environment.

Given, therefore, the influential role of the weather in the economic well being of the Region, it was hardly surprising that the establishment of the Caribbean Meteorological Organisation coincided with the setting up of the Caribbean Community and Common Market in 1973. In fact, the preambular paragraphs of the Agreement Establishing the Caribbean Meteorological Organisation made an express linkage between its establishment and economic development of the Region. Membership of the Organisation was open to the countries of the Commonwealth Caribbean in the first instance and any other state of the Region willing to exercise the rights and assume the obligations of membership. The functions of the Organisation indicate the concern of competent decision-makers with the importance of the weather to the economic well-being of the Region. These include meteorological services to civil aviation which is vital for the tourist industry, provision of an efficient hurricane warning system in the absence of which damage from hurricanes is likely to escalate with probable adverse consequences for insurance and insurance premiums, escalating transportation costs and a disincentive to foreign direct investment; and participation in agricultural meteorology, hydrology and associated scientific research of direct relevance to the Member States of the Region.

The organs of the Organisation include the Caribbean Meteorological Council, the Caribbean Meteorological Institute, the Caribbean Meteorological Foundation and the Headquarters Unit. The Council, which is the supreme organ of the Organisation, consists of one representative each of the Member States. The arrangements for the headquarters are somewhat curious since the Caribbean Community Regional Secretariat is recognised as the Secretariat of the Organisation but the principal office of the Secretariat is the Headquarters Unit which is located in Trinidad and Tobago. The Institute has a Board of Governors comprising seven members, appointed by the Council, the Coordinating Director and the Principal of the Institute as *ex officio* members. The Organisation possesses full juridical personality and Member States accord to it such privileges and immunities as are necessary for the fulfilment of its objectives and the performance of its functions.

AGREEMENT FOR THE ESTABLISHMENT OF THE CARIBBEAN METEOROLOGICAL ORGANISATION

The governments of the contracting states:

Recognising the need for the establishment of an efficient meteorological service in the Region;

Conscious of the fact that such a service can contribute to the economic development of the Region;

Mindful that the Common Services Conference convened in Trinidad and Tobago in July, 1962 decided that the proposed arrangement in respect of the future of meteorological services in the Region should be embodied in a formal agreement;

Noting that in pursuance of the foregoing a formal agreement was entered into by the parties and is now in force;

Desiring that regional co-operation in matters of meteorological and allied sciences should be continued and expanded.

Have agreed as follows:-

Article 1
Establishment of the Caribbean Meteorological Organisation

The Caribbean Meteorological Organisation (hereinafter referred to as "the Organisation") is hereby established, with membership, powers and functions hereinafter stipulated.

Article 2
Membership

Membership of the Organisation shall be open to -

(a) (i) Antigua
(ii) Bahamas
(iii) Barbados
(iv) Belize
(v) British Virgin Islands
(vi) Cayman Islands
(vii) Dominica
(viii) Grenada
(ix) Guyana
(x) Jamaica
(xi) Montserrat
(xii) St. Kitts-Nevis-Anguilla
(xiii) St. Lucia
(xiv) St. Vincent
(xv) Trinidad and Tobago
(xvi) Turks and Caicos Islands;

(b) any other State of the Region able and willing to exercise the rights and assume the obligations of membership and which is admitted as a member in accordance with Article 29.

Article 3
Objectives

The Organisation shall have as its objectives the promotion and co-ordination of regional activities in the fields of meteorology and allied sciences.

Article 4
Functions

For the purpose of attaining the objectives set out in Article 3 the functions of the Organisation shall include -

(a) meteorological services to civil aviation;

(b) cooperation with other services to provide an efficient hurricane warning system;

(c) provision of meteorological information and advice to Member States;

(d) collection and analysis of all relevant meteorological data available and publication of results

(e) cooperation with meteorological services;

(f) participation in the work of the appropriate international organisations particularly the World Meteorological Organisation and the International Civil Aviation Organisation;

(g) the execution of basic scientific observations in keeping with its objectives;

(h) participation in work in applied meteorology, agricultural meteorology, hydrology and associated research of direct interest to the Region;

(i) cooperation with all relevant scientific institutions.

Article 5
General Undertaking as to Implementation

Member States shall take all appropriate measures to ensure the carrying out of obligations arising under this Agreement.

Article 6
The Organs

The organs of the Organisation shall include -

(a) the Caribbean Meteorological Council (hereinafter referred to as "the Council");

(b) the Caribbean Meteorological Institute (hereinafter referred to as "the Institute");

(c) the Caribbean Meteorological Foundation (hereinafter referred to as "the Foundation");

(d) the Headquarters Unit.

Article 7
Establishment and Membership of the Council

1. The Council is hereby established as the supreme organ of the Organisation.

2. Each Member State shall be entitled to be represented on the Council by one person designated by such State.

3. Each Member State may, as appropriate, designate an alternate to represent the State at any meeting of the Council.

Article 8
Procedure

1. The Council shall meet at least once in each calendar year and as such other times as it may consider necessary or on a request submitted by the Secretariat of the Organisation by not less than one-third of the Member States.

2. The Chairman of the Council shall be elected by the Council at the beginning of each meeting from among the Council members.

3. Where the representative of a Member State is elected Chairman, that Member State shall be entitled to appoint another representative in his place.

4. The Chairman shall not have a vote, but where no representative has been appointed in accordance with paragraph (3) of this Article, the Chairman may in his capacity as a representative exercise his vote. If on any question to be decided by the Council the votes are equally divided, than the motion shall be considered to be lost.

5. A quorum of the Council shall consist of not less than three-fifths of the members.

6. Where at any meeting of the Council a difference of opinion exists on any matter arising for decision, the decision of the majority of the representatives present shall be the decision of the Council:

Provided that such a majority decision shall not commit any Member State to expenditure except with the agreement of such State:

Provided also that such a majority decision shall not preclude any number of Member States from agreeing to execute and thereupon executing any projects in meteorology and allied sciences:

Provided also that such a majority decision shall not be put into effect without approval of a majority of the representatives of all Member States.

7. Subject to the foregoing provisions of this Agreement, the Council shall regulate its own procedure.

Article 9
Functions and Powers

1. The Council may issue directions of a general or special character as to the policy to be pursued by the Organisation and any organs, institutions or bodies of the Organisation, and effect shall be given to any such directions.

2. The Council shall be the final authority for the conclusion of agreements on behalf of the Organisation and for entering into relationships between the Organisation and other Organisations and States. The Council may however delegate this authority in any particular case.

3. Subject to the provisos to Article 8 (6) the Council shall take decisions for the purpose of maintaining the financial arrangements necessary for meeting the expenses of the Organisation and shall be the final authority on questions arising in relation to the financial affairs of the Organisation.

4. The Council may determine the operation of regional programmes in meteorology and allied sciences to achieve the objectives of the Organisation.

5. The Council may at the request of any Member State make provision for the representation of that State by the Organisation on any constituent body of the World Meteorological Organisation.

6. The Council may generally do all such acts and things as may be requisite in order to fulfil the objectives or the Organisation, and may in particular -

(a) appoint officers and staff to the Organisation upon such terms and conditions as the Council may decide;

(b) establish and designate such institutions, bodies and committees as it sees fit for achieving the purposes of carrying out the objectives of the Organisation.

7. The Council may delegate to any of its representatives or to any organ of the Organisation, or to any other person or body, such of its powers and functions as it may decide from time to time, under the terms and within the limits laid down by the Council.

Article 10
The Headquarters Unit

1. The Commonwealth Caribbean Regional Secretariat shall be recognised as the Secretariat of the Organisation. The principal office of the Secretariat in relation to this Agreement shall be the Headquarters Unit which shall be situated in Trinidad and Tobago unless the Council otherwise determines.

2. The Headquarters Unit shall enjoy functional autonomy and shall comprise a Co-ordinating Director and such other staff as may be determined by the Council.

3. The Co-ordinating Director shall be the principal administrative and technical officer of the Headquarters Unit.

Article 11
Functions

The functions of the Headquarters Unit shall include -

(a) undertaking and carrying out of the decisions of the Council;

(b) advising and assisting Member States, in particular, those States without national meteorological services;

(c) formulating and co-ordinating applications and requests for technical assistance from non-Member States and international agencies for regional projects;

(d) representing those Member States which so desire at sessions of the Congress of the World Meteorological Organisation as determined by Council;

(e) Attending meetings if appropriate, of the International Civil Aviation Organisation (ICAO), especially the Regional Air Navigation Meetings;

(f) collecting and disbursing funds for the operation of regional programmes in meteorology and allied sciences as determined by the Council;

(g) initiating projects, studies and other programmes of a regional nature in the field of meteorology and allied sciences;

(h) attending to such matters relating to the fields of meteorology and allied sciences as may be referred to it by the Council.

Article 12
The Institute

The Institute established in Barbados as part of a project in co-operation with the United Nations Development Programme in the Plan of Operation entitled Improvement of the Caribbean Meteorological Services is hereby continued as if established under this Agreement and shall be maintained and controlled by the Organisation and shall be subject to any policy directions of a general or special character which may be issued by the Council.

Article 13
Functions

1. The Institute shall provide training and conduct research in meteorology and allied sciences.

2. The Institute shall provide facilities to Member States for the repair and maintenance of meteorological equipment. It shall undertake the processing and dissemination of climatological data and shall provide advice to Member States on request.

3 . The Institute shall, when appropriate, co-operate with national, regional or international organisations or other bodies concerned with the development of meteorology and allied sciences.

4. The Institute shall also deal with such other matters relating to meteorology and allied sciences as may be referred to it by the Council.

Article 14
Board of Governors

1. There shall be in relation to the Institute a Board of Governors (hereinafter referred to as "the Board") which, subject to the provisions of this Agreement, shall be responsible for the general policy and conduct of the affairs of the Institute.

2. The Board shall comprise -

(a) not less than seven members who shall be appointed by the Council;

(b) the Co-ordinating Director and the Principal of the Institute as ex-officio members.

3. In appointing members of the Board the Council shall have due regard to the principle of equitable geographical distribution and the necessity of having a quorum of members available at short notice.

4. The Council shall appoint an alternate with full power to act for a member when he is not present. Such alternate shall, where appropriate, be appointed from the same State or group of States as that of which the member is a representative.

5. Members shall be appointed for a term of three years unless sooner removed from office by the Council and shall be eligible for re-appointment.

6. No personal liability shall attach to any member of the Board in respect of anything done or suffered in good faith in the course of his duties and any sums of

money, damage or costs which may be recovered against or be payable by such member in respect of any act or thing done in good faith for the purpose of performing his functions under this Agreement shall be paid out of the funds of the Organisation.

7. The Council shall pay to each member of the Board such remuneration, if any, as may be determined by the Council.

8. A member of the Board who is in any way, whether directly or indirectly, interested in a contract made or proposed to be made by the Institute shall immediately disclose his interest to the Board and shall not take part in any deliberations or decisions of the Board with respect to that contract.

Article 15
Procedure

1. Four Members (not including ex officio members) shall constitute a quorum for any meeting of the Board.

2. The ex officio members of the Board shall have no right to vote.

3. Subject to the foregoing provisions the Board shall regulate its own procedure.

Article 16
Powers

The powers of the Board shall include -

(a) appointing such staff (other than the Principal of the Institute) and other persons as may be necessary for the adequate performance of the functions of the Institute;

(b) delegating to the Principal of the Institute any of their powers specified in this Article in relation to the Institute;

(c) co-opting any person to assist in the work of the Board, so however that no such person shall be, or be deemed to be, a member of the Board;

(d) operating bank accounts.

Article 17
The Principal

1. The Principal of the Institute (hereinafter referred to as "the Principal") shall be appointed by the Council upon such terms and conditions as the Council sees fit.

2. The Principal shall be responsible for carrying out the functions of the Institute and shall do so in accordance with directions of the Board.

Article 18
Advisers

1. The Board may invite such persons as it considers fit to constitute a panel or advisers to the Institute.

2. The composition of the panel may be varied by the Board from time to time.

Article 19
The Foundation

The Foundation shall be established with the membership, powers and functions hereinafter set out.

Article 20
Membership and Management

1. Membership of the Foundation shall be limited to persons nominated by the Council.

2. The Management of the Foundation shall be vested in a Board of Management which shall consist of persons appointed by the Council due regard being had to the principle of equitable geographical distribution.

Article 21
Purpose and Functions

1. The purpose of the Foundation is to raise funds for the promotion through the Institute of the study and research of meteorology and allied sciences.

2. The Foundation shall perform such other functions and have such powers as the Council may entrust to it.

Article 22
The Financial Arrangements of the Organisation

1. The Council shall consider and approve budgets of the Organisation (including budgets for the Institute, the Foundation and the Headquarters Unit) and shall determine the procedure for establishing annual budgets.

2. The expenses of the Organisation shall be borne by Member States as apportioned by the Council.

Article 23
Settlement of Disputes

1. If any dispute shall arise between the Organisation and any Member State or between one such Member State and another touching or concerning any Article, matter or thing whatsoever herein contained, or the operation or construction thereof, or any matter or thing in any way connected with this Agreement or the rights, duties, obligations or liabilities of either party under or in connection with this Agreement, the same may be reported to the Secretary-General by any of the parties thereto and the Secretary-General shall promptly notify the other party of the receipt of the report and shall copy such notification tot he party making the report.

2. The parties may refer the dispute within forty five days from the date of such notification to an Arbitrator appointed by them from the list of Arbitrators drawn up and maintained by the Secretary-General. Where the parties to the dispute fail to appoint such an Arbitrator within the prescribed period the Secretary-General shall notify the

parties of the expiration of the prescribed period and within thirty days following the expiration of that period appoint an Arbitrator from the same list.

3. The Secretary-General shall provide the Arbitrator with such assistance and facilities as he may require.

Article 24
Legal Capacity

1. The Organisation shall possess full juridical personality.

2. The Organisation shall enjoy in each Member State such legal status and legal capacity as may be necessary for the fulfilment of the objectives and the exercise of the functions of the Organisation.

3. The Organisation shall enjoy in each Member State, such privileges and immunities as may be necessary for the fulfilment of the objectives and the exercise of the functions of the Organisation.

Article 25
Signature

This Agreement shall be open for signature by any of the States listed in Article 2 (a) of this Agreement.

Article 26
Ratification

This Agreement and any amendment thereto shall be subject to ratification by the signatory States in accordance with their respective constitutional procedures. Instruments of ratification shall be deposited with the Secretariat which shall transmit certified copies to each Member State.

Article 27
Entry into Force

This Agreement shall enter into force on the 31st day of December, 1973 if instruments of ratification of eight States including Barbados, Guyana, Jamaica and Trinidad and Tobago have been deposited in accordance with Article 26 and if not, on such later date as the eighth instrument of ratification including those of Barbados, Guyana, Jamaica and Trinidad and Tobago, has been deposited. The Secretary-General shall notify Member States of the entry into force of this Agreement.

Article 28
Registration

This Agreement and any amendment thereto shall be registered with the Secretariat of the United Nations.

Article 29
Accession

1. Any State of the Region may apply to the Council to become a member of the Organisation and may if the Council so decides be admitted to membership in accordance with Article 2 (b).

2. Admission to membership shall be upon such terms and conditions as the Council may decide and shall take effect from the date on which an appropriate Instrument of Accession is deposited with the Secretariat.

Article 30
Amendment

An amendment to the provision of this Agreement shall be submitted to Member States for ratification if it is approved by a decision of the Council and it shall have effect provided it is ratified by all Member States. Instruments of ratification shall be deposited with the Secretariat which shall notify all Member States.

Article 31
Withdrawal

1. Any Member State may withdraw from this Agreement by giving twelve months notice in writing to the Secretariat which shall forthwith notify other Member States.

2. A Member State so withdrawing undertakes to honour any financial obligations duly assumed during its membership of the Organisation.

Article 32
Saving

Nothing contained in this Agreement shall preclude any Member State from deciding on the facilities in the meteorology and allied sciences which it requires from time to time in its territory but any such State shall meet or make its own provision for meeting all costs and expenses whatsoever incurred thereby.

Article 33
Transitional Provisions

1. This Agreement shall take the place of the formal Agreement now in force and referred to in the Preamble to this Agreement.

2. Upon the coming into force of this Agreement, the Organisation shall assume the obligations of, and accept all the assets vested in the Caribbean Meteorological Council established under the formal Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have affixed their signatures to this Agreement.

Done at Basseterre, St. Kitts-Nevis-Anguilla in a single copy which shall be deposited with the Commonwealth Caribbean Regional Secretariat which shall transmit certified copies to all the Contracting States.

RESOLUTION

WHEREAS the Twelfth Meeting of the Caribbean Meteorological Conference recognising the need for the expansion of Regional Co-operation in matters of meteorology and allied sciences, agreed that a Caribbean Meteorological Organisation be established;

AND WHEREAS it was further agreed that such an Organisation should replace the present Caribbean Meteorological Council;

BE IT RESOLVED THAT upon the entry force of the Agreement establishing the Caribbean Meteorological Organisation all the assets which are vested in the Caribbean Meteorological Council shall be deemed to have been transferred to the Caribbean Meteorological Organisation.

27

THE CARIBBEAN SUBCENTRE OF THE LATIN AMERICAN CENTRE FOR DEVELOPMENT ADMINISTRATION

The Group of Experts under the Chairmanship of W. Demas, set up in 1980 by the Common Market Council to prepare a strategy for the Caribbean integration movement during the decade of the 1980s, in its report of 1982 had determined, *inter alia*, that implementation was one of the most intractable problems bedeviling the regional economic integration movement. In 1992, the West Indian Commission, established by the Heads of Government in Grande Anse in 1989, also determined that implementation, or rather the lack thereof, was the Achilles Heel of the regional integration movement. Both groups of experts concluded that implementation was an event rather than a process. In the present submission however, implementation, depending on the nature of the determinations at regional level to be implemented at the national plane, may be a protracted process involving interventions by Ministers of Government, public servants in several departments of Government, non-Governmental organisations and the private sector. More often than not, however, the class of actors featuring in the process invariably includes public sector administrators and herein lies the significance of addressing deficiencies in the administration as an indispensable dimension of national economic development. Furthermore, "with contracting resources available from either multilateral or reduced bilateral sources, the demand for greater efficiency and productivity in public administrations has been heightened. More significantly an enhanced administrative capacity at all levels of the public bureaucracy is a fundamental requirement to ensure cost-effective implementation of programmes".

The general objective of the Centre is to render assistance to Caribbean countries for the purpose of improving their administrative capabilities to accelerate social and economic development. The operational objectives of the Centre include conducting, promoting and coordinating research and comparative studies on the administrative problems of Caribbean development; obtaining, analysing, publishing and distributing information and data on the administrative aspects of development, including the importance of technology transfers; providing technical advisory services on development administration to Governments and multinational agencies of the Caribbean and improving the administrative capacity of public servants of the Region.

The Centre consists of a Board of Directors, the Executive Secretary and other officers considered necessary by the Board of Directors. The Board of Directors is the governing body of the Centre charged with general responsibility for its operation. The

Board may delegate any of its powers set out in the Agreement to the Executive Secretary. The Board comprises one member each nominated by the Member States, one representative each nominated by the CARICOM Secretariat, the Eastern Caribbean Common Market Secretariat, the University of the West Indies and universities of participating States without the right to vote; the Executive Secretary, the President of the Latin American Centre for Development Administration, representatives of organisations involved in the formation, functioning or funding of the Centre. The latter category of representatives also does not have the right to vote at meetings of the Board.

The administrative headquarters of the Centre is located in Barbados but the Centre may conduct any of its activities in the jurisdictions of Member States. The Centre enjoys in each Member State such privileges and immunities required for the fulfilment of its objectives and the performance of its functions. Officials of the Centre enjoy in each Member State such privileges and immunities required for the performance of their functions. The Centre cooperates with international organisations active in similar fields and may cooperate with other institutions with similar interests. The provisions of the Agreement are silent on the juridical personality and legal status of the Centre, unlike the constituent instruments of similar organisations.

AGREEMENT ESTABLISHING THE CARIBBEAN SUBCENTRE OF THE LATIN AMERICAN CENTRE FOR DEVELOPMENT ADMINISTRATION

The contracting parties:

Sharing a common determination for the reform and improvement of their systems of public administration with a view to promoting the development of the Region and achieving a better quality of life for the peoples of the Region;

Considering that in spite of minor differences there exists a similarity of background and common problems in the field of public administration;

Conscious therefore of the need to create the necessary environment for the pooling of resources;

Noting that the Caribbean Heads of Government at their meeting in St. Kitts in December 1975 approved in principle a regional approach; and

Convinced that the Latin American Centre for Development Administration of which some of the Caribbean countries are members can provide an appropriate setting and a model for cooperation in this field.

Hereby agree as follows:

Article 1
Establishment

The Caribbean Centre for Development Administration (hereinafter referred to at 'the Centre") is hereby established as a sub-Centre of the Latin American Centre for Development Administration having the membership, powers and functions hereinafter specified.

Article 2
Membership

Membership of the Centre shall be open to all the Caribbean countries that sign this Agreement in accordance with Article 17 and ratify it in accordance with Article 18.

Article 3
Objects

The General objectives of the Centre shall be rendering of assistance to the countries of the Caribbean area for the purpose of improving their administrative capability to accelerate their social and economic development and the operational objectives shall be:

(a) to promote, conduct and coordinate research and comparative studies on the administrative problems of Caribbean development;

(b) to obtain, analyse, publish and distribute information and data on the administrative aspects of development, stressing the importance of the transfer of technology concerning such problems, thus aiding to eliminate the isolation which might exist among the various national administrative development efforts which are being carried out in the Region;

(c) to provide technical advisory services on development administration to the Governments and multinational agencies of the Region, and to assist them in their programmes of administrative development;

(d) to establish and maintain a register of Caribbean experts in public administration;

(e) to improve the administrative capacity of the public servants of the Region through:

  (i) conducting intensive seminars and workshops on modern management techniques, for senior Caribbean officials responsible for the administration of key programmes for economic and social development as well as for middle management personnel where feasible in selected fields;

  (ii) assistance to the institutions for education and training in public administration in the countries of the Region, in order to improve their teaching programmes and aid them in fulfilling the specific requirements for the implementation of their national plans for economic and social development;

  (iii) facilitating cooperation between Training Centres, Staff Colleges and Organisation and Management Units of the Region;

(f) to collaborate with other agencies operating in specialised or general aspects of public administration.

2. For the purpose of this Article the Centre may take such action as may be necessary or expedient for the attainment of its objectives for the performance of its functions.

Article 4
Structure

The Centre shall have:

(a) a Board of Directors with a Chairman and a Deputy Chairman;

(b) an Executive Secretary or a Chief Executive Officer;

(c) such other officers and staff as may be deemed necessary by the Board.

Article 5
Governing Body

1. The Board of Directors shall be the Governing Body of the Centre and shall be responsible for the general operation of the Centre.

2. Without prejudice to the generality of paragraph 1 of this Article the Board of Directors shall have the power to:

(a) give general or specific policy directions to the Executive Secretary (or Chief Executive officer);

(b) appoint on such terms and conditions and at such time as it may decide an Executive Secretary or some other officer to be in charge of the Centre and the staff of the Centre;

(c) elect its Chairman and Deputy Chairman;

(d) authorise agreements to be made with non-member countries or other authorities or entities;

(e) receive and approve the annual report of the Executive Secretary (or Chief Executive Officer);

(f) approve the budget of the Centre to be prepared annually for the next following three financial years;

(g) approve the programmes of work annually of the next following three financial years;

(h) cause to he kept appropriate books of account, appoint qualified auditors and cause to be prepared annual audited statements.

Article 6
Membership of the Board

1. The Board of Directors (hereinafter called "the Board") shall comprise:

(a) delegates nominated by the Member States, one only by each, who shall sit as voting members subject to the provisions of paragraph 3, 5 and 5 of Article 8;

(b) representatives nominated, one only by each of the following organisations:

The Caribbean Community Secretariat, the Eastern Caribbean Common Market Secretariat, the University of the West Indies and Universities of participating countries who shall sit without the right to vote.

2. (a) The Executive Secretary or the person designated by the Board as being in charge of the Centre shall have the right to attend meetings of the Board, but shall not have the right to vote;

(b) The President of the Latin American Centre for Development Administration shall also have the right to attend meetings of the Board in person or to nominate a representative in his stead, but shall not have the right to vote;

(c) Representatives of the organisations participating in the formation, functioning or financing of the Centre may attend, on invitation, meetings of the Board but will not have the right to vote.

3. (a) Alternate Directors may be appointed by the appropriate authorities in accordance with paragraph 1 of this Article;

(b) Directors and Alternate Directors shall be senior officials designated by their Governments;

(c) The Member Governments shall inform the Secretariat of the Centre of any changes in the appointment of their Directors.

Article 7
Delegation

The Board may delegate to the Executive Secretary or Officer in charge such of its functions as it thinks fit, provided that no such delegation shall preclude the Board from so acting at any time as it thinks fit, without prejudice however to anything done by the Executive Secretary or Officer in charge under that delegation.

Article 8
Meetings of the Board

1. The Board shall meet at least once a year or as often as the business of the Centre may require.

2. A majority of Directors entitled to vote shall constitute a quorum for any meeting of the Board.

3. Each Director entitled to vote shall have one vote and the Chairman shall have a casting vote only.

4. A Member State whose Director has been appointed Chairman, shall be entitled to have its vote registered by its alternate Director.

5. When a Deputy Chairman performs the function of Chairman, the member State which he represents shall be entitled to have its vote registered by its alternate Director.

6. Subject to this Agreement, the Board shall regulate its own procedure.

Article 9
Chairman of the Board

1. The Chairman of the Board shall be elected by a majority of the Board of Directors from among themselves.

2. The term of office of the Chairman shall be one year on a rotating basis among the countries, such rotating being determined by the order of the date of joining the Centre or by such other basis as the Board itself may determine.

3. The Deputy Chairman shall be elected by the Board from among its members by a majority vote.

Article 10
The Executive Secretary/Officer-in-Charge

1. The duties of the Executive Secretary/Officer-in-Charge shall include:
   (a) the day to day management and control of the Centre;
   (b) the control of the expenditure of the funds of the Centre within the approved estimates;
   (c) the performance of such functions of the Board as may be delegated to him;
   (d) the organisation of special programmes and projects in furtherance of the objects of the Centre;
   (e) ensuring that correct procedures are followed with respect to all matters within the joint competence of the Centre and any other entity or organisation with which there is an agreement;
   (f) representation either personally or by a nominee appointed by him upon such Authorities, Boards or Committees of any Organisation with which the Centre has an agreement, if necessary;
   (g) the submission of an annual report to the Board;
   (h) the preparation annually for the approval of the Board of programmes of work for the next following three years;
   (i) the preparation annually for the approval of the Board of estimates of expenditure for the next following three years.

2. The Executive Secretary/Officer-in-Charge shall not undertake any other duties without the consent of the Board.

3. In the absence or the incapacity of the Executive Secretary/Officer-in-Charge or while that office is vacant, the Board shall make suitable arrangements for the carrying out of the duties of the Executive Secretary.

Article 11
Staff of the Centre

1. Subject to the directions of the Board, the Executive Secretary/Officer-in-Charge shall appoint such members of its staff in accordance with the estimates approved by the Board as are necessary for the performance of the functions of the Centre.

2. All staff appointments shall be made subject to the terms and conditions of service determined by the Board.

Article 12
Revenue

The revenue of the Centre shall be derived from:

(a) the annual contributions of member countries;

(b) such contributions as may be made by other States whether within or outside the Region;

(c) such grants as may be made from any international organisation or other source for the financing of special research; development of teaching projects or for fellowships;

(d) such fees as may be determined from time to time by the Board as fees payable to the Centre;

(e) payments made to the Centre in consideration of consultancy services provided through the Centre; and

(f) income from any other sources.

Article 13
Location of the Centre

1. The Headquarters of the Centre shall be located in Barbados.

2. The Executive Secretary/Officer-in-Charge shall negotiate suitable arrangements for the establishment and maintenance of the Headquarters of the Centre.

3. The conclusion of such arrangements shall be subject to the approval of the Board.

4. The Centre may establish such programmes or projects or hold such seminars, workshops or training courses in any Member State as may be deemed necessary by the Board.

Article 14
Relations with Universities, etc.

The Centre shall seek such association with the Universities of the Caribbean region, Administrative Staff, Colleges, Government Training Units or Training Centres, Organisation and Management (or Methods) Departments, Divisions or Units as will promote the achievement of its objectives.

Article 15
Legal Status

1. The Centre shall enjoy in each Member State such privileges and immunities as may be necessary for the fulfilment of its objectives and exercise of its functions.

2. The officials of the Centre shall enjoy in each Member State such privileges and immunities as may be necessary for the fulfilment of their duties.

3. The Centre may cooperate with international organisations active in fields similar to its own and may seek all appropriate contacts with a view to cooperating with other institutions which operate in fields similar to its own.

Article 16
Implementation

Member States shall take all steps necessary for the implementation of this Agreement.

Article 17
Signature

This Agreement shall be deposited with the Ministry of External Affairs of the Host (headquarter) country (hereinafter referred to as the Depository) and shall be open for signature until the entry into force of this Agreement by any of the States qualified to join.

Article 18
Ratification

This Agreement and any amendments thereto shall be subject to ratification by the signatories in accordance with their respective constitutional procedures. Instruments of Ratification shall be deposited with the Depository which shall transmit certified copies to each Member State.

Article 19
Entry into Force

This Agreement shall enter into force by the deposit of the Instruments of Ratification in accordance with Article 18 by six of the States.

Article 20
Accession

1. Any State qualified to join which, upon the entry into force of this Agreement, has not signed this Agreement in accordance with Article 17 and which wishes to become a member after that date may accede to the Agreement by deposit of appropriate Instruments of Accession with the Depository.

2. Admission to the Membership shall be upon such terms and conditions as the Board may decide and shall take effect from the date on which the appropriate Instrument of Accession is deposited with the Depository.

Article 21
Amendment

1. Any Member State may make proposals for amending this Agreement. Such proposals shall be submitted to the Board for its approval through the Executive Secretary and the Depository.

2. Any proposed amendment that is approved by the Board shall be submitted to each Member State for ratification.

3. Any such amendment shall enter into force upon the deposit of the Instruments of Ratification by a Majority of the Member States.

Article 22
Withdrawal

1. Any Member State may withdraw from this Agreement by giving not less than 6 months notice in writing to the Depository who shall forthwith notify other Member States.

2. A Member State withdrawing nevertheless undertakes to honour any financial obligations duly assumed during its participation in this Agreement.

Article 23
Inaugural Meeting

As soon as this Agreement enters into force, each Member State together with the Authorities and organisations represented on the Board shall appoint the Directors or representatives on the Board as the case may be in accordance with Article 6 and the Depository shall call the Inaugural Meeting of the Directors.

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THE CARICOM FOUNDATION FOR ART AND CULTURE

Given the rich cultural heritage of the Caribbean Community whose Member States have provided the world with the only new musical instrument of the twentieth century, the steel pan, the calypso and reggae and enriched the literature of the world with the works of three Nobel Prize Winners, Sir Arthur Lewis, Derek Walcott and Vidia Naipaul, it is somewhat surprising that the Community was so lethargic in establishing a regional organisation for the promotion of the arts and culture. It was only in 19.. that the Inter-Governmental Agreement on the Establishment of the CARICOM Foundation for Art and Culture entered into force. As early as 1973 the drafters of the Treaty of Chaguaramas recognised the need for 'the promotion of greater understanding among its peoples and the advancement of their social, cultural and technological development'. Similarly, the remit of the Council for Human and Social Development, established by the Revised Treaty of Chaguaramas, includes the establishment of 'policies and programmes to promote the development of youth and women in the Community with a view to encouraging and enhancing their participation in social, cultural, political and economic activities'. The healthy concern of the political directorate with the culture of the Region has found tangible expression in CARIFESTA which highlights the variegated components of Caribbean Culture which transcends both political and linguistic barriers of the Region.

Membership of the Foundation is restricted to Member States and Associate Members of the Community and any country of the Caribbean region admitted by the Board to participate in the regime. The principal decision-making organ of the Foundation is the Board of Directors consisting of seven persons appointed by the Secretary-General of the Caribbean Community. Of the seven persons appointed, four must be nominated by the Regional Cultural Committee or such other successor body appearing to the Secretary-General to be representative of persons associated with the different areas of cultural and artistic activity in the Caribbean Community and three persons nominated by the Standing Committee of Ministers responsible for Culture.

The objectives of the Foundation are to foster and promote the enjoyment of, and the production of works in the arts, humanities and social sciences and in particular, to assist, cooperate with and enlist the aid of organisations with objectives similar to those of the Foundation. The Foundation also provides grants, scholarships, bursaries or loans to persons in any Member State for study or research in the arts, humanities, or social sciences or to persons in other countries for study or research in these fields in Member States and makes awards to persons resident in any Member State or elsewhere

in the Caribbean region and to persons resident elsewhere who are citizens of or previously belonging to the Caribbean who are producing work of Caribbean content, for outstanding accomplishment in the arts, humanities and social sciences. The Foundation arranges and sponsors exhibitions, performances and publications of works in the arts, humanities and social sciences; exchange with other countries or organisations or persons therein knowledge and information respecting the arts, humanities and social sciences; and arranges for the representation and interpretation of the arts, humanities and social sciences of Caribbean countries in other countries.

The Foundation was to be headquartered in Montserrat, but due to the disruption and general uncertainty occasioned by the eruption of the volcano it has been decided to locate the Headquarters temporarily in Barbados. In terms of status, the Foundation enjoys full juridical personality with capacity to contract, acquire and dispose of movable and immovable property and to institute and defend legal proceedings. It is assumed that in any legal proceedings the Foundation would be represented by the Executive Director. Provision is made in the Foundation's constituent instrument for a wide range of privileges and immunities to be recognised and granted in the territories of the Contracting Parties. Although provision is not expressly made for the conclusion of a Headquarters Agreement, it is assumed that the Foundation would conclude such an agreement and similar agreements with the Governments of Territories where it establishes branches pursuant to Article 7(2) of the Agreement.

INTER-GOVERNMENTAL AGREEMENT ON ESTABLISHMENT OF CARICOM FOUNDATION FOR ART AND CULTURE

Preamble

The governments of Member States of the Caribbean Community:

Conscious of the need for co-operation in the cultural field;

Having regard to Article 4 of the Treaty of Chaguaramas which declares that one of the objectives of the Community is -

"the promotion of greater understanding among its peoples and the advancement of their social, cultural and technological development";

Recognising the need to foster and promote development in the arts, humanities and social sciences;

Cognisant of the need to facilitate such development with the establishment of a CARICOM Foundation for Art and Culture and the securing of funding for it from several sources;

Mindful of the potential role of Non-Governmental Organisations in the management and functioning of such a Foundation;

Hereby agree as follows:

CHAPTER 1 - ESTABLISHMENT, MEMBERSHIP AND OBJECTIVES OF THE FOUNDATION

Article 1
Establishment

The Caribbean Community Foundation for Art and Culture (hereinafter in this Agreement referred to as the "CARICOM Foundation") is hereby established having the membership, powers and functions hereinafter specified in this Agreement.

Article 2
Interpretation

In this Agreement -

"Board" means the Board of Directors of the Foundation appointed pursuant to Article 5;

"Caribbean Community" means the Caribbean Community established by Treaty done at Chaguaramas on 4 July 1973;

"Member States" means a Member State of the Caribbean Community and includes an Associate Member of the Caribbean Community;

"Regional Cultural Committee" means the Committee known by that name comprising Directors of Culture in Member States and other persons representing different areas of cultural and artistic activity in the Caribbean Community and recognised by the Standing Committee as the body competent to advise it generally on the adoption and implementation of policies relating to culture in the Community;

"Secretary-General" means the Secretary-General of the Caribbean Community;

"Standing Committee" means the Standing Committee of Ministers responsible for Culture.

Article 3
Membership

Participation in this Agreement shall be open to -

(a) The member States and Associate Members of the Caribbean Community listed in the Annex to this Agreement;

(b) Any other country in the Caribbean Region which becomes a Member State or Associate Member of the Caribbean Community;

(c) Any other country in the Caribbean Region admitted to participate in this Agreement in accordance with Article 29.

Article 4
Objectives

The objectives of the CARICOM Foundation are to foster and promote the enjoyment of, and the production of works in, the arts, humanities and social sciences and, without prejudice to the generality of the foregoing, the foundation may, in particular -

(a) assist, co-operate with and enlist the aid of organisations, the objects of which are similar to or compatible with any of the objects of the Foundation;

(b) provide, through appropriate organisations or otherwise, grants, scholarships, bursaries or loans to persons in any Member State for study or research in the arts, humanities or social sciences in any Member State or elsewhere or to persons in other countries for study or research in those fields in any Member State;

(c) make awards to persons resident in any Member State or elsewhere in the Caribbean Region and to persons resident elsewhere who are citizens of or previously belonging to the Caribbean who are producing work of Caribbean content, for outstanding accomplishment in the arts, humanities or social sciences;

(d) arrange for and sponsor exhibitions, performances and publications of works in the arts, humanities or social sciences;

(e) exchange with other countries or organisations or persons therein knowledge and information respecting the arts, humanities and social sciences; and

(f) arrange for the representation and interpretation of the arts, humanities and social sciences of Caribbean Countries in other countries.

CHAPTER II - MANAGEMENT

Article 5
Management of the Foundation

1. The Governing Body of the CARICOM Foundation shall be a Board of Directors consisting of the following seven persons appointed by the Secretary-General -

(a) four persons nominated by the Regional Cultural Committee or such other successor body appearing to the Secretary-General to be representative of persons associated with different areas of cultural and artistic activity in the Caribbean Community; and

(b) three persons nominated by the Standing Committee.

2. Nominations for appointment pursuant to paragraph 1 of this Article shall be made from among persons recognised within the Caribbean Community for their knowledge and deep interest in the art and culture of the Caribbean Community.

3. The Secretary-General shall appoint the Chairperson and Deputy Chairperson of the Foundation from among its members.

4. In the case of the absence or inability of the Chairperson to act, the Deputy Chairperson shall exercise the functions of the Chairperson.

5. The Secretary-General may appoint any person to act temporarily in the place of a director in the case of the absence or inability of such director to function as a member of the Board of Directors.

Provided that the Secretary-General shall not make an appointment under this paragraph, unless -

(a) a nomination is made in like manner as is required under paragraph 1 of this Article;

(b) it appears to him that it is impracticable for a nomination to be made.

Article 6
Tenure of Office

1. A Director shall, subject to the provisions of this Agreement, hold office for a period not exceeding three years but shall be eligible for re-appointment.

2. The Secretary-General shall revoke the appointment of a Director appointed pursuant to paragraph 1 of Article 5 on the recommendation of the body which nominated that person for appointment as a member of the Board of Directors.

3. Any Director, other than the Chairperson, may at any time resign office as a Director of the Foundation by writing addressed to the Secretary-General and transmitted through the Chairperson and from the date of receipt thereof by the Secretary-General, that Director shall cease to be a member of the Board.

4. The Chairperson may, at any time, resign office in writing addressed to the Secretary-General and such resignation shall take effect from the date of the receipt thereof by the Secretary-General.

Article 7
Headquarters of the Foundation

1. The Headquarters of the Foundation shall be located in Montserrat.

2. The Board may, if they consider it necessary or expedient for the fulfillment of the objectives of the Foundation, establish branches in other Member States or elsewhere.

Article 8
Remuneration for the Directors

There shall be paid from the funds of the Foundation the Chairperson and other members of the Board and the members of any advisory committee appointed by the Trustees such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Board of Directors of the Foundation may determine, with the approval of the Standing Committee

Article 9
Staff of the Foundation

1. There shall be an Executive director of the Foundation to be appointed by the Board on such terms and conditions (including the payment of pension, gratuity and

other like benefits by reference to the service of the Director) to be determined by the Board.

2. There shall be employed such other officers and employees of the Foundation on such terms and conditions (including the payment of pensions, gratuity or other like benefits by reference to their service) to be determined by the Board.

3. The Executive Director shall, subject to the general policy decisions of the Board, be responsible for the business of the Foundation and answerable therefor to the Board.

4. The Board may delegate to the Executive Director such of their powers under paragraph 2 as they may determine.

5. The remuneration of the Executive Director and other officers and employees of the Foundation shall be paid out of its funds and other resources.

Article 10
Meetings

1. The Board shall meet at least once per year at such times as may be necessary or expedient for the transaction of business, and such meeting shall be held at such places and times and on such days as the Board may decide.

2. Minutes of all meetings of the Foundation shall be recorded.

3. The Chairperson shall, at any time, summon a special meeting of the Foundation to be held within ten days after the receipt of a written request for that purpose addressed to the Chairperson by at least three of the Directors.

4. Four Directors shall constitute a quorum for meetings of the Board.

5. The Chairperson or, in the case of the absence or inability of the Chairperson to act, the Deputy Chairperson or, in the absence of both of them, the member of the Board elected by the other members present, shall preside at meetings of the Board and, when so presiding, the Chairperson or Deputy Chairperson or the member elected as aforesaid to preside shall have an original and a casting vote.

6. Subject to the provisions of this Article, the Board may regulate their own proceedings.

7. The validity of the proceedings of the Board shall not be affected by any vacancy amongst the members of the Board or by any defect in the appointment of a Director.

CHAPTER III - FINANCIAL PROVISIONS

Article 11
Endowment Fund

The Board may, out of the funds and other resources of the Foundation, establish an Endowment Fund for the purposes of the Foundation in fulfilment of its objectives pursuant to this Agreement.

Article 12
Donations

The foundation may acquire money, securities or other property by way of gifts, bequests or otherwise and may spend, administer or otherwise dispose of any such money, securities or other property subject to the terms, if any, upon which such money, securities or other property was donated, bequeathed or otherwise made available to the Foundation.

Article 13
Investments

1. The Foundation may make investments out of its moneys and the investments may be made in such securities as may be approved by the Board.

2. The proceeds of the sale or other disposition of any investment made out of the Endowment Fund of the Foundation shall be credited to that Fund.

Article 14
Audit

1. The accounts and financial transactions of the Foundation shall be audited annually by an auditor appointed by the Board and a report thereon shall be made to the Board.

2. The Board shall, as soon as practicable after the accounts have been audited, send the statement of the accounts of the Foundation to the Secretary-General for transmission to the Standing Committee together with a copy of any report thereon made by the auditor.

3. The fees of the auditor and any other expenses of the audit shall be subject to the approval of the Board and shall be paid by the Foundation.

Article 15
Annual Report

1. As soon as the accounts of the Foundation have been audited in accordance with Article 14, the Board shall submit to the Secretary-General for transmission to the Standing Committee a report on its activities throughout the year, together with a statement of the audited accounts of the Fund.

2. A copy of the report mentioned in paragraph 1 of this article together with a copy of the report of the auditor shall be printed at the expense of the Foundation and shall be available for inspection by the public in Member States.

CHAPTER IV - LEGAL STATUS, IMMUNITIES AND PRIVILEGES

Article 16
Purpose of Chapter

In order to enable the Foundation effectively to carry out its objectives and perform its functions pursuant to this Agreement, the status, immunities, exemptions and privileges set out in this Chapter, shall be accorded to the Foundation in the territory of each Contracting Party.

Article 17
Legal Status

The Foundation shall possess full juridical personality and, in particular, full capacity -

(a) to contract;

(b) to acquire and dispose of movable and immovable property; and

(c) to institute and defend legal proceedings.

Article 18
Property, Funds and Assets

The Foundation, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity. No waiver of immunity shall extend to any measure of execution.

Article 19
Inviolability of Premises and Property

1. The premises of the Foundation shall be inviolable.

2. The archives of the Foundation and, in general, documents belonging to or held by it shall be inviolable wherever located.

3. The property of the Foundation wherever located and by whomsoever held shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative or judicial action.

Article 20
Financial Privileges
Exemption from Exchange Controls

1. Without being restricted by financial controls, regulations or moratoria of any kind, the Foundation may -

(a) hold funds, gold or currency of any kind and operate accounts in any currency;

(b) freely transfer its funds, gold or currency from one country to another or within any country and convert any currency held by it into any other currency.

2. In exercising its rights under paragraph 1 of this Article, the Foundation shall pay due regard to any representations made by any Contracting Party and shall give effect to such representations insofar as it is considered possible to do so without detriment to the interest of the Foundation.

Article 21
Exemption from Taxation

The property of the Foundation shall be exempt from -

(a) any form of direct taxation, but the Foundation shall not claim exemption from taxes which are in fact, no more than charges levied for specific services rendered;

(b) customs duties and from prohibition and restrictions on imports and exports in respect of articles imported or exported by the Foundation for its official use, but articles imported under such exemptions shall not be sold within the territory of the Contracting Party except under conditions agreed to with the Government of that Contracting Party;

(c) customs duties and other levies and prohibitions and restrictions in respect of the importation, sale and exportation of its publications.

Article 22
Facilities in Respect of Communications

1. The Foundation shall enjoy in the territory of each Contracting Party for its official communications, treatment not less favourable than that accorded by the Government of that Contracting party to any other Government, international organisation or foreign diplomatic mission.

2. The Foundation shall be immune from censorship of its official correspondence and other official communications.

3. The Foundation shall have the right to use codes and despatch and receive correspondence by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

4. Nothing in this Article shall be construed so as to preclude the adoption of appropriate security measures in the interests of the Contracting Party concerned.

Article 23
Immunities and Privileges of Directors and Officials of The Foundation and of Experts Performing Missions for the Foundation

The Directors, officials and other employees of, and experts performing missions for, the Foundation -

(a) shall be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity, this immunity to continue notwithstanding that the person concerned has ceased to be an official of the Foundation;

(b) shall be immune from seizure of their personal and official baggage and enjoy inviolability for all papers and documents as is accorded to a diplomatic agent in accordance with international law;

(c) shall be exempt from any form of taxation on remuneration received from the Foundation;

(d) shall be exempt from national service obligations;

(e) shall enjoy exemption for themselves, and members of their families and dependents forming part of their households from immigration restrictions and alien registration ; and

(f) shall enjoy such facilities as regards exchange control as are not less favourable than those accorded by the Contracting Parties concerned to the representatives, officials and other employees of diplomatic missions of comparable rank.

Article 24
Waiver of Immunities and Privileges

The privileges and immunities accorded by this Agreement are granted in the interest of the Foundation and not for the personal benefit of the individuals themselves. The Executive Director may waive the immunity of any person entitled thereto in any case where, in the opinion of the Executive Director, such immunity impedes or is likely to impede the course of justice and can be waived without prejudice to the interest of the Foundation. In the case of the Executive Director, the Board of Directors may waive the immunity.

Article 25
Saving

Nothing in this Agreement shall be construed as obliging any Contracting Party to accord any of the privileges or confer any of the immunities referred to therein to any person who is a national of, or permanently resident in, the territory of that Contracting Party, whether as a member of the Board of Directors or an official or other employee of the Foundation, except immunity from jurisdiction and inviolability in respect of words spoken or written or official acts performed in the exercise of his functions.

Article 26
Settlement of Disputes

Any dispute arising between the Contracting Parties out of the interpretation or application of this Agreement shall be settled by the Standing committee of Ministers responsible for Education or its appointee, provided that negotiation between the Contracting Parties has failed.

Article 27
Signature and Ratification

This Agreement shall be open for signature by the Member States listed in the Annex to this Agreement and shall be subject to ratification in accordance with their respective constitutional procedures.

Article 28
Entry into Force

1. This Agreement shall enter into force when Instruments of Ratification have been deposited by at least five of the Member States listed in Part A of the Annex to this Agreement, including Montserrat.

2. The Secretary-General shall notify the Contracting Parties of the entry into force of this Agreement.

Article 29
Accession

1. Any country referred to in paragraphs (b) or (c) of Article 3 may, after the entry into force of this Agreement, apply to the Board of Directors to become a party to this Agreement.

2. The Board may approve the application on such terms and conditions as it deems fit and such country shall become a Party to the Agreement on the date on which an appropriate Instrument of Accession is deposited with the Secretary-General.

Article 30
Amendment

1. This Agreement may be amended on a proposal of a Contracting Party or on the recommendation of the Board and, in either case, with the adoption by two-thirds of the Contracting Parties.

2. An amendment of this Agreement shall enter into force when ratified by all the Contracting Parties.

3. Instruments of Ratification shall be deposited with the Secretary-General.

Article 31
Depositary

1. This Agreement and any amendments thereto shall be deposited with the Secretary-General of the Caribbean Community.

2. The Secretary-General shall notify the Contracting Parties and the Chairperson of the Board of the deposit of Instruments of Ratification or Accession.

Article 32
Withdrawal

1. Any Contracting Party wishing to withdraw from this Agreement shall give to the Board twelve months' notice of its intention to do so and the Chairperson of the Board shall forthwith notify the other Contracting Parties.

2. The notice mentioned in paragraph 1 of this Article may be withdrawn at any time prior to the date on which the withdrawal is to take effect.

3. A Contracting Party withdrawing from this Agreement shall honour any financial obligations duly assumed by it during the period of its being a Contracting Party.

IN WITNESS WHEREOF the undersigned representatives, being duly authorised by their respective Governments, have signed this Agreement.

ANNEX

PART A - LIST OF MEMBER STATES OF THE CARIBBEAN COMMUNITY

Antigua and Barbuda
The Bahamas
Barbados
Belize
Commonwealth of Dominica
Grenada
Guyana
Jamaica
Montserrat
St. Kitts and Nevis
Saint Lucia
St. Vincent and the Grenadines
Trinidad and Tobago

PART B - LIST OF ASSOCIATE MEMBERS OF THE CARIBBEAN COMMUNITY

British Virgin Islands
Turks and Caicos Islands

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THE CARIBBEAN COMMUNITY CLIMATE CHANGE CENTRE

The United Nations Conference on Small Island Developing States (SIDS) which convened in Bridgetown, Barbados in April/May 1994 approved the Barbados Plan of Action which identified climate change and sea level rise as the first of 14 priority areas to be addressed for the achievement of sustainable development. Indeed, in the Caribbean Community the most serious environmental challenge facing the island states and the low lying states of Belize and Guyana is that of global climate change (GCC). Some of the negative effects associated with global climate change are: sea-level rise with accompanying coastal erosion and salt water intrusion into the water table; and escalation in the frequency and intensity of hurricanes and typhoons and disruptions in precipitation and freshwater supply which threaten the very survival of most Member States of the Caribbean Community. Given the importance of climate change to the Caribbean, the Global Environmental Facility (GEF) agreed to fund a project entitled 'the Caribbean Project for Adjustment to Climate Change' (CPACC) which is executed by the Organisation of American States in collaboration with the University of the West Indies Centre for Environment and Development (UWICED) for the World Bank. The Global Environmental Facility is the implementing agency.

The objective of the Caribbean Project for Adjustment to Climate Change is preparing Caribbean States to cope with the negative effects of global climate change, particularly sea-level rise in coastal areas through vulnerability assessment, adaption planning and related capacity building. The achievements which have been identified by the CPACC are:

(a) establishment of a sea level and climate monitoring system;

(b) improved access and availability of data;

(c) increased appreciation of climate change issues at the policy-making level;

(d) meeting country needs for expanded vulnerability assessment;

(e) establishment of coral reef monitoring protocols;

(f) establishing a network for regional harmonisation;

(g) increased public awareness on climate change issues; and

(h) higher visibility of regional climate change concerns in the international negotiating arena.

To date, there have been two successor projects to the CPACC. These are 'Adaptation to Climate Change in the Caribbean' (ACCC) and 'Mainstreaming Adaptation to Climate Change'(MACC). The ACCC's principal objective is the establishment of conditions under which the Region will be able to sustain climate change activities when the CPACC comes to an end. The MACC has been tasked with:

(a) assisting in mainstreaming climate change considerations into development planning and sectoral investment projects;

(b) identifying and developing appropriate technical and institutional response mechanisms for adaptation to global climate change; and

(c) supporting and promoting regional climate change monitoring and modelling.

The political directorate of the Caribbean have determined to establish a permanent climate change mechanism. At its eighth ordinary meeting, the Council for Trade and Economic Development (COTED) of the Caribbean Community considered and commended to the Conference of Heads of Government for endorsement a concept paper on the CCCCC. At their twentieth Meeting in Canouan, the Conference approved the establishment of the Centre. A draft Agreement on the establishment of the Centre was prepared and circulated to Member States and the Legal Affairs Committee at its fifth ordinary meeting in Port-of-Spain, November 28 to 30, 2001 approved and commended to Conference the draft Agreement on the CCC.

The objectives of the Centre are as follows:

(a) protection of the climate system of Members for the benefit of future generations of their peoples;

(b) enhancing regional institutional capabilities for the coordination of national responses to the negative effects of climate change;

(c) providing comprehensive policy and technical support in the areas of climate change and related issues and spearheading regional initiatives in those areas; and

(d) performing the role of executing agency for regional environmental projects relating to climate change.

The Centre consists of a Council of Ministers, a Board of Governors and a Technical Secretariat. The Council consists of Ministers of Government responsible for the Environment and subject to any general or special directions of COTED determines the policy of the Centre. The Board of Governors is comprised of representatives of public and private institutions whose policies may impact on the Centre. The Board is the operational arm of the Centre and is assisted in its work by a Policy Advisory Committee comprising representatives from public and private institutions known to be important stakeholders in the operations of the Centre. The Technical Secretariat is largely concerned with supplying technical inputs for the deliberations and determinations of the Council and the Board of Governors. The Centre has full juridical personality and is accorded privileges and immunities by Member States to ensure the efficient performance of its functions.

AGREEMENT ESTABLISHING THE CARIBBEAN COMMUNITY CLIMATE CHANGE CENTRE

The contracting parties:

Recalling that the United Nations Conference on Environment and Development held in Rio, Brazil in 1992 called for "periodic regional and global meetings on sustainable development of Small Island Developing States ...";

Recalling further that the United Nations Conference on Small Island Developing States (SIDS) which was convened in Bridgetown, Barbados in 1994 concluded that Small Island Developing States (SIDS) have very specific environmental and developmental needs due to their ecological fragility and vulnerability as well as their peculiar constraints in attempting to achieve sustainable development, in particular, limited availability of human resources and inadequate financial resources for developing and strengthening institutions and their mechanisms;

Acknowledging that the constraints on sustainable development of SIDS are also peculiar to other developing countries in the Caribbean Region, in particular the least developed among them;

Recognising that the most serious environmental challenge confronting Caribbean SIDS and low-lying developing coastal States in the Caribbean Region is that of global climate change;

Recognising further that the adverse effects in the Caribbean Region of global climate change are likely to be aggravated by the studied response to globalisation / liberalisation as evidenced in aggressive coastal zone development, point source pollution and over-fishing, resulting in the destruction of ecologically fragile and valuable marine eco-systems.

Concerned that human activities in developed countries substantially increase anthropogenic gaseous emissions which augment atmospheric concentrations of greenhouse gases thereby increasing the earth's surface and atmospheric temperature with negative impact on human kind and natural eco-systems;

Convinced that the global nature of climatic change requires the widest co-operation by all countries and their participation in an effective and appropriate international response in accordance with their common but differentiated responsibilities, respective capabilities and their social and economic conditions;

Noting the provisions of United Nations General Assembly Resolutions 43/53 of 6 December 1988; 44/207 of 22 December 1989; 45/212 of 21 December 1990, and 46/169 of 19 December 1991 on the protection of global climate for present and future generations of mankind;

Noting also the provisions of United Nations General Assembly Resolution 44/206 of 22 December 1989 on the possible adverse effects of sea-level rise on developing islands and coastal areas, particularly low-lying coastal areas;

Noting further the Vienna Convention for the Protection of the Ozone Layer, 1985 and the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987, as amended on 29 June 1990;

Believing that small island developing States and such others with low-lying coastal areas susceptible to floods or with fragile mountainous eco-systems are particularly vulnerable to the negative effects of global climate change;

Believing also that steps required to understand and respond effectively to the negative effects of global climate change must be based on relevant scientific, technical and economic considerations and continually re-evaluated in the light of new findings in these areas;

Affirming that responses to climate change should be co-ordinated with social and economic development in an integrated manner with a view to avoiding adverse impact on the latter, taking fully into account the legitimate priority needs of developing countries for the achievement of sustained economic growth and the eradication of poverty;

Determined to contribute positively to the protection of the climate system for present and future generations;

Recalling also that the Conference of Heads of Government of the Caribbean Community at its Twenty-First Meeting held in Canouan, St. Vincent and the Grenadines on 2-5 July 2000, agreed to support the initiatives towards the establishment of a Regional Climate Change Centre;

Convinced also that the project entitled Caribbean Planning for Adaptation to Global Climate Change (CPACC) has made a significant contribution in sensitising States of the Caribbean Region of the importance of adjusting to the negative consequences of climate change;

Have agreed as follows:

Article 1
Use of Terms

In this Agreement, unless the context otherwise requires:

"adverse/negative effects of climate change" means changes in the physical environment or biota resulting from climate change which have significant deleterious effects on the composition, resilience or productivity of natural and managed eco-systems or on the operation of socio-economic systems, or on human health and welfare;

"Agreement" means the Agreement establishing the Centre;

"the Board" means the Board of Governors established by Article 5;

"the Centre" means the Caribbean Community Climate Change Centre established by Article 2;

"climate change" means a change of climate attributed directly or indirectly to human activity that alters the composition of the global atmosphere in addition to natural climate variability observed over comparable time periods;

"climate system" means the totality of the atmosphere, hydrosphere, biosphere, geosphere and their interactions;

"the Council" means the Council of Ministers established by Article 7;

"COTED" means the Council for Trade and Economic Development of the Caribbean Community;

"the Director" means the Director of the Technical Secretariat;

"emissions" means the release of greenhouse gases and/or their precursors into the atmosphere over a specified area and period of time;

"greenhouse gases" means those gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation;

"Members" means States or Territories which are parties to the Agreement;

"the Secretary-General" means the Secretary-General of the Caribbean Community.

Article 2
Establishment

There is hereby established the Caribbean Community Climate Change Centre (hereinafter referred to as "the Centre") having the composition, objectives, principles and functions set out in this Agreement.

Article 3
Membership

1. Membership of the Centre shall be open to the Members and Associate Members of the Caribbean Community which sign and ratify or accede to this Agreement.

2. States or Territories of the Caribbean Region which, in the opinion of the Council, are able and willing to enjoy the rights and discharge the obligations set out in this Agreement, may be admitted to membership of the Centre.

3. The Council may admit as associate members of the Centre, extra-regional States, State entities or Territories which, in the opinion of the Council, contribute substantially to the achievement of the objectives of the Centre and are able and willing to enjoy the rights and discharge the obligations set out in this Agreement.

4. Entities mentioned in paragraphs 2 and 3 desirous of becoming Members or Associate Members of the Centre, as the case may be, shall submit an application in that behalf to the Technical Secretariat which shall transmit it to the Council for consideration and action.

5. Notwithstanding the provisions of paragraph 3, the Caribbean Community (CARICOM), the Caribbean Development Bank (CDB), the Caribbean Disaster Emergency Response Agency (CDERA), the Caribbean Meteorological Institute (CMI), Caribbean Environmental Health Institute (CEHI), the Association of Caribbean States (ACS) and the Organisation of American States (OAS) shall be deemed to have satisfied the requirements for associate membership of the Centre and shall be invited by the Council to participate in the work of the Centre on mutually agreed terms and conditions.

Article 4
Objectives

The objectives of the Centre shall be:

(a) protection of the climate system of Members of the Centre for the benefit of present and future generations of their peoples;

(b) enhancing regional institutional capabilities for the co-ordination of national responses to the negative effects of climate change;

(c) providing comprehensive policy and technical support in the area of climate change and related issues and spearheading regional initiatives in those areas; and

(d) performing the role of executing agency for regional environmental projects relating to climate change.

Article 5
Functions

In order to achieve its objectives set out in Article 4, the Centre shall perform the following functions:

(a) collecting, analysing, storing, retrieving and disseminating meteorological and sea-level data relevant to the observation of climate change and facilitating, in collaboration with specialised Caribbean agencies, the collection of information about the impact of climate change on the economic sectors in the Caribbean;

(b) facilitating and co-ordinating the development of Caribbean positions on global climate change and serving as an authoritative technical source for Caribbean countries to, inter alia, fulfil their responsibilities under the United Nations Framework Convention on Climate Change;

(c) assisting Members, on request, in realising the equitable benefits resulting from the implementation of financial mechanisms under the Kyoto Protocol;

(d) providing, on request, Members and Associate Members with strategic assistance for public education and awareness campaigns at the national and regional levels to involve all regular stakeholders, both public and private;

(e) in collaboration with Members and relevant agencies, developing special programmes to address implications in the Region for coastal zone management, disaster management, and potentially vulnerable sectors such as tourism, health, agriculture and insurance;

(f) promoting the sharing of resources, technical co-operation and information exchange with other global climate change initiatives, in particular in Small Island Developing States and Latin America;

(g) co-ordinating (and initiating) the development of regional research programmes, including adaptation of global climate and impact modelling

efforts and specialised training focussed on effective adaptation to global climate change;

Article 6
Principles

Pursuant to the objectives set out in Article 4, the Centre shall be guided by the following principles, inter alia:

(a) the unrestricted exchange of non-confidential information;

(b) in protecting the climate system of the Caribbean Region, special consideration shall be given by the Centre and competent organisations to the circumstances of the least developed Members and in particular the economic importance of their coastal zones;

(c) the employment, as far as scientifically or environmentally possible, of precautionary measures to minimise the causes of climate change and mitigate its adverse consequences;

(d) the right of Members and Associate Members, as an attribute of sovereignty, to determine their developmental path, subject to the obligation to refrain from action deleterious to the environmental health of other States.

Article 7
Composition of the Centre

The Centre shall consist of the following Organs:

(a) the Council of Ministers;

(b) the Board of Governors; and

(c) the Technical Secretariat.

Article 8
Composition and Procedures of the Council of Ministers

1. The Council of Ministers (hereinafter called "the Council") shall comprise Ministers Responsible for the Environment of Members of the Centre. The Council shall meet once every year.

2. Each Member of the Council shall be entitled to designate an alternate to represent the Minister on the Council if the Minister is unable to act.

3. Subject to paragraph 6 of this Article, each Member of the Council shall have one vote. The Council shall take decisions by a two-thirds majority vote of its Members entitled to vote, and such decisions shall be legally binding. The Council shall make recommendations by a simple majority vote. Recommendations shall not create legally binding obligations.

4. The Council may admit observers to its deliberations but such observers shall not have the right to vote. Associate Members shall be entitled to be observers at the deliberations of the Council.

5. The Centre shall bear the cost of representation of Members of the Council at its Meetings.

6. The Council may suspend from its membership, Members whose Governments have persistently violated obligations assumed by or under this Agreement. In taking decisions pursuant to this paragraph, Members against whom action is being taken shall not have the right to vote.

7. Subject to this Article, the Council shall establish its rules of procedure.

Article 9
Functions of the Council

In furtherance of the objectives of the Centre, the Council shall:

(a) be the principal policymaking Organ of the Centre and shall, subject to general or special directions of COTED, determine the policy of the Centre;

(b) conduct periodic reviews of the adequacy of the provisions of this Agreement and the policies and measures designed to address the adverse effects of climate change in the Caribbean Region;

(c) negotiate the timely transfer of resources and technology from the developed countries to the Members of the Centre in order to address the negative effects of climate change in the Caribbean Region;

(d) facilitate, at the request of two or more Members of the Centre, the co-ordination of measures adopted by them in response to the adverse effects of climate change, taking into account the different capabilities of the Members concerned;

(e) consider and adopt the recurrent and capital budgets of the Centre on the recommendations of the Board of Governors;

(f) establish such subsidiary bodies as may be necessary for the performance of its functions;

(g) formulate national and regional sustainable development strategies to allow for more effective use of institutional, financial and human resources as a basis for efficient and effective implementation of donor-assisted programmes and projects;

(h) approve the eligibility criteria for funding of projects established by the Council;

(i) appoint the Director of the Technical Secretariat on the recommendation of the Board;

(j) conclude agreements for the achievement of the objectives of the Centre.

Article 10
The Board of Governors

1. The Board of Governors (hereinafter called "the Board") shall consist of representatives of Members and institutions, both public and private, set out in the Annex to this Agreement.

2. The Board shall meet in ordinary session once in every year and in extra-ordinary session as often as the Board considers necessary or expedient.

3. The Centre shall defray the expenses of Members of Board incurred to attend meetings of the Board.

4. Each Member of the Board shall have one vote.

5. The Board shall take decisions by a qualified majority of three-quarters of the votes of its membership.

6. Subject to the provisions of this Article, the Board shall determine its rules of procedure.

Article 11
Functions of the Board

The Board shall perform the following functions:

(a) initiate or determine, as the case may be, projects designed to protect the climate system or to address the adverse effects of climate change in the Caribbean Region;

(b) adopt measures to mitigate climate change by addressing anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol as well as measures to facilitate adaptation to climate change;

(c) in preparing to address the adverse effects of climate change, encourage the development and elaboration of appropriate integrated plans for coastal zone management, water resources and agriculture;

(d) undertake and co-operate in the full open and prompt exchange of relevant scientific, technological, technical, socio-economic and legal information related to the climate system and climate change of the Caribbean Region and the economic and social effects of various response strategies;

(e) promote and co-operate in education, training and public awareness related to climate change and encourage the widest participation in this process, including that of non-governmental organisations;

(f) consider and adopt, as appropriate, the Work Programme and Reports of the Technical Secretariat on the work of the Centre;

(g) approve regional environmental projects for which the Centre can perform the functions of executing agency;

(h) approve the Staff Regulations of the Centre.

(i) determine and approve the resources of the Centre required for its recurrent and capital budgets and the Reserve Fund established by Article 11;

(j) mobilise resources for the Centre and cause to be undertaken the studies and arrangements required for the purpose;

(k) manage the Reserve Fund, including the investment of its liquid assets and transfer the income from such investments periodically to the Reserve Fund;

(l) cause to be kept appropriate records and accounts of the Reserve Fund and provide for their annual audit in accordance with internationally accepted accounting principles;

(m) prepare for submission to the Council, annual financial reports regarding the investments and use of the resources of the Reserve Fund;

(n) cause to be transferred to the Technical Secretariat from the Reserve Fund, the amounts approved by the Council for the recurrent and capital budgets of the Centre;

(o) monitor the application of the resources of the recurrent and capital budgets of the Centre in order to ensure that such resources are being employed in accordance with this Agreement and the Work Programme of the Technical Secretariat approved by the Council;

(p) approve the auditors of the Fund on the recommendation of the Technical Secretariat and submit the annual report of the auditors to the Council for examination and approval.

Article 12
Composition and Procedures of the Policy Advisory Committee

1. The Board shall establish a Policy Advisory Committee (hereinafter referred to as "the Committee") comprising representatives from public and private sector organisations, including the Caribbean Community (CARICOM), the United Nations Environment Programme (UNEP), the Caribbean Environmental Health Institute (CEHI), the CARICOM Fisheries Unit (CFU), the University of the West Indies Centre for Environment and Development (UWICED), the Caribbean Conservation Association (CCA), the United Nations Development Programme (UNDP), the Organisation of Eastern Caribbean States/ Natural Resources Management Unit (OECS/UNRMU) the Organisation of American States (OAS), the Association of Caribbean States (ACS), the Caribbean Meteorological Institute (CMI), the Caribbean Association for Industry and Commerce (CAIC), and such other organisations as the Board may determine.

2. Each member of the Committee shall have one vote.

3. The Committee shall elect its Chairman from among its membership and the Chairman shall hold office for one year. The Chairman shall be eligible for re-election.

4. The Committee shall meet once every year immediately prior to the annual meeting of the Board and shall submit an annual report on its activities to the Board.

5. The Centre shall defray the expenses incurred by Members to attend meetings of the Committee.

6. The Committee shall take decisions by consensus.

7. Subject to the provisions of this Article, the Committee may adopt its own rules of procedure.

Article 13
Functions of the Committee

The Committee shall have responsibility for advising the Board on, inter alia:

(a) the eligibility criteria to be adopted by the Centre for projects to be funded by the Centre;

(b) the programme priorities to be adopted by the Centre;

(c) projects in the area of climate change to be developed by the Centre for funding by interested organisations;

(d) projects designed to protect the Caribbean climate system from the negative effects of climate change and to devise strategies to adapt to such negative effects;

(e) the capital budget of the Centre for projects mentioned at paragraph (d) for consideration and adoption by the Board;

(f) projects in respect of which the Centre desires to perform the functions of executing agency, and

(g) such other functions as the Board may determine.

Article 14
The Technical Secretariat

1. The Technical Secretariat shall comprise a Director and such other members of staff as the Board may determine.

2. The Director shall be appointed by the Board on the recommendation of the Policy Advisory Committee. The Director shall serve for a period of five years and may be re-appointed.

3. In the appointment of staff to the Technical Secretariat, the Director shall be guided by the principle of equitable geographical representation of Members of the Centre and the requirement to ensure the highest standards of efficiency in the delivery of services.

4. Staff members of the Technical Secretariat shall be accorded the status of international bureaucrats. In the performance of their functions, they shall neither seek nor take instructions from any authority external to the Centre. Representatives of Members of the Centre shall refrain from actions tending to compromise the status of the staff of the Technical Secretariat as international bureaucrats.

5. The conditions of employment of the staff of the Technical Secretariat shall be set out in the Staff Regulations to be established under the direction of the Director.

Article 15
Functions of the Technical Secretariat

The Technical Secretariat shall perform the following functions:

(a) provide the Council with timely advice on scientific and technological matters relating to climate change and adaptation to the adverse effects thereof;

(b) provide assessments of the state of scientific knowledge relating to climate change and its effects;

(c) provide assessments of the effects of measures designed to deal with the adverse effects of climate change;

(d) identify efficient state-of-the-art technologies and know-how designed to counter the adverse effects of climate change and advise on their development, transfer and adaptation to the conditions of Members of the Centre;

(e) provide advice on scientific programmes, international co-operation in research and development relating to climate change, as well as on developing relevant endogenous capabilities;

(f) respond to Members requesting scientific, technological and methodological information on climate change and adaptation to the adverse effects thereof;

(g) identify environmental projects in respect of which the Centre could perform the functions of executing agency;

(h) provide secretarial services for the meetings of the Council and subsidiary bodies of the Centre;

(i) co-ordinate the work of the Centre with that of interested inter-governmental and non-governmental bodies;

(j) under the authority of the Council, conclude such administrative and contractual arrangements as may be required for the effective performance of its functions;

(k) prepare the draft recurrent budget for submission to the Board for examination and approval;

(l) prepare the Work Programme of the Centre for submission to the Board for examination and approval.

Article 16
The Reserve Fund

1. The Centre shall establish a Reserve Fund along the lines set out in this Article.

2. The resources of the Reserve Fund shall consist of the following:

(a) grants from international donors and sponsors of the Centre;

(b) grants from Members and Associate Members;

(c) grants from entities, public and private, which are not sponsors of the Centre;

(d) unspent balances from the annual budgets of the Centre;

(e) revenues derived from the operations of the Centre;

(f) income from investments of the Centre.

3. The resources of the Reserve Fund shall be employed to finance the recurrent and capital budgets of the Centre.

4. Withdrawal of resources from the Reserve Fund shall require the prior authorisation of the Chairmen of the Board and the Council acting jointly.

5. The resources of the Reserve Fund shall be held in such liquid form as the Board may determine, provided that whenever it is in the interest of the Centre, the resources of the Reserve Fund may be invested in the securities of the Region.

6. Investments mentioned in paragraph 5 shall be made by the Director of the Technical Secretariat with the approval of the Board and the Council.

7. The finances of the Reserve Fund shall be audited annually by the auditors appointed by the Centre to audit its accounts. The Report of the Auditors shall be submitted to the Board for consideration and approval.

Article 17
Transitional Arrangements

1. Pending the establishment of the Reserve Fund, the Government of the Member in whose territory the Headquarters of the Centre is to be located, shall advance to the Technical Secretariat such amounts as may be necessary for the efficient functioning of the Technical Secretariat.

2. The advances mentioned in paragraph 1 shall constitute a charge on the resources of the Reserve Fund to be liquidated as soon as practicable after the establishment of the Reserve Fund or, with the consent of the Government of the Member where the Headquarters of the Centre is to be located, may be applied to augment the resources of the Reserve Fund.

3. Pending the appointment of the Director, the Government of the Member in whose territory the Headquarters is to be located, may second to the Technical Secretariat, on terms and conditions to be agreed with the Secretary-General of the Caribbean Community, a senior official to manage the affairs of the Technical Secretariat in the interest of the Centre. In the performance of his duties, the seconded official shall be subject to the provisions of paragraph 4 of Article 8.

Article 18
The Headquarters of the Centre

The Headquarters of the Centre shall be established and located in the territory of a Member which shall accord to the Centre and the staff of the Technical Secretariat the rights, privileges and immunities set out in this Agreement.

Article 19
Status, Privileges and Immunities

Members shall accord to the Centre within their jurisdictions, the status, immunities, exemptions and privileges set out in Articles 20 to 27 in order to enable it to effectively fulfil its objectives and carry out the functions entrusted to it.

Article 20
Legal Status of the Centre

1. The Centre shall possess full juridical personality and, in particular, full capacity to:

(a) contract;

(b) acquire and dispose of moveable and immoveable property;

(c) institute legal proceedings.

2. The Centre may enter into agreements with Members, third States and other international organisations for the achievement of its objectives.

3. In any legal proceedings, the Centre shall be represented by the Director.

Article 21
Legal Process

1. The Centre shall be immune from every form of legal process, except in cases arising out of or in connection with the purchase of land, securities or merchantable commodities, in which cases actions may be brought against the Centre in a court of competent jurisdiction in the Territory of a Member in which the Centre has an office or in a non-Member State where the Centre has appointed an agent for the purpose of accepting service or notice of process.

2. Notwithstanding the provisions of paragraph 1, no action shall be brought against the Centre by a Member or any agency thereof, or by any entity or person directly or indirectly acting for or deriving claims from a Member. Members shall have recourse to such special procedures for the settlement of disputes between the Centre and its Members as may be provided for in this Agreement.

3. The Centre, its property and assets wheresoever located and by whomsoever held, shall be immune from all forms of seizure, attachment or execution before delivery of final judgment against the Centre.

4. Nothing in this Agreement shall be construed as disentitling a person aggrieved by a motor vehicle accident from instituting legal proceedings against the Centre, its officials, representatives or experts.

Article 22
Immunity of Assets and Archives

1. Property and assets of the Centre, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

2. The archives of the Centre and, in general, all documents belonging to or held by the Centre, shall be inviolable, wherever located.

Article 23
Freedom of Assets from Restrictions

To the extent necessary to achieve the objectives and perform the functions of the Centre effectively, and subject to the provisions of the Agreement, the Centre:

(a) may hold assets of any kind and operate accounts in any currency;

(b) shall be free to transfer its assets from one country to another or within any country, and to convert any currency held by it into any other currency,

without being restricted by financial controls, regulations or moratoria of any kind.

Article 24
Privilege for Communications

Official communications of the Centre shall be accorded by each Member, treatment not less favourable than that it accords to the official communications of any other Member.

Article 25
Privileges and Immunities of Centre Personnel

The Director, other senior officials of the Centre notified to and approved by the Government of Members, Members of the Board and Council, and experts performing missions for the Centre:

(a) shall be immune from legal process in respect of acts performed by them in their official capacity;

(b) shall, unless they are local citizens or nationals, be accorded such immunities from immigration restrictions, alien registration requirements and national service obligations, and such facilities as regards exchange regulations as are not less favourable than those accorded by Members concerned to the representatives, officials and experts of comparable rank of any other Member;

(c) shall be granted such repatriation facilities in time of international crisis as are not less favourable than those accorded by the Members concerned to the representatives, officials and experts of comparable rank of any other Member.

Article 26
Exemption From Taxation

1. The Centre, its assets, property, income, operations and transactions shall be exempt from all direct taxation and from all customs duties on goods imported for its official use.

2. Notwithstanding the provisions of paragraph 1 of this Article, the Centre shall not claim exemption from taxes which are no more than charges for public utility services.

3. The Centre will not normally claim exemption from excise duties and from taxes on the sale of moveable and immoveable property which form part of the price to be paid. Nevertheless, where the Centre is making important purchases for official use

of property on which such duties and taxes have been charged or are chargeable, Members shall, whenever possible, make appropriate administrative arrangements for the remission or the return of the amount of duty or tax.

4. Articles imported under an exemption from customs duties as provided by paragraph 1 of this Article, or in respect of which a remission or return of duty or tax has been made under paragraph 3, shall not be sold in the territory of the Member granting the exemption, remission or retrieve except under conditions agreed with the Member.

5. No tax shall be levied on or in respect of salaries and emoluments paid by the Centre to the Directors, Officials or Experts performing missions for the Centre. However, Members reserve the right to tax their own citizens, nationals or persons permanently resident in the territories of such Members.

Article 27
Waiver of Immunities, Exemptions and Privileges

1. The exemptions, immunities and privileges provided in Articles 21-27 are granted in the interest of the Centre. The Council may waive to such extent and upon such conditions as it may determine, the immunities, exemptions and privileges provided in the said Articles in cases where such action would, in its opinion, be appropriate in the best interest of the Centre.

2. The Director shall have the right and duty to waive any immunity, exemption or privilege in respect of any official or expert performing a mission for the Centre where, in his opinion, the immunity, exemption or privilege would impede the course of justice and could be waived without prejudice to the interests of the Centre.

3. In similar circumstances and under the same conditions, the Council shall have the right and duty to waive any immunity, exemption or privilege in respect of the Director.

Article 28
Implementation

Every Member shall take appropriate steps to make the provisions of Articles 21-27 effective within its jurisdiction and shall inform the Centre promptly.

Article 29
Questions of Interpretations and Application

1. Any question of interpretation or application of the provisions of this Agreement not otherwise expressly provided for shall be submitted to the Council for decision.

2. In any case where the Council has given a decision under paragraph 1 of this Article, any Member may require that the question be referred to an arbitral tribunal whose decision shall be final. Pending the decision of the arbitral tribunal, the Centre, as it considers necessary, may act on the basis of the decision of the Council.

Article 30
Constitution of Arbitral Tribunal

1. Each of the Members parties to a dispute shall be entitled to appoint one arbitrator. The two arbitrators chosen by the parties shall be appointed within fifteen days following the decision to refer the matter to arbitration. The two arbitrators shall, within fifteen days following the date of their appointments, appoint a third arbitrator who shall be the Chairman. As far as practicable, the arbitrators shall not be nationals of any of the parties to the dispute.

2. Where either party to the dispute fails to appoint its arbitrator under paragraph 1, the Secretary-General shall appoint the arbitrator within ten days. Where the arbitrators fail to appoint a Chairman within the time prescribed, the Secretary-General shall appoint a Chairman within ten days.

3. Where more than two Members are parties to a dispute, the parties concerned shall agree among themselves on the two arbitrators to be appointed within fifteen days following the decision to refer the matter to arbitration and the two arbitrators shall within fifteen days of their appointment appoint a third arbitrator who shall be the Chairman.

4. Where no agreement is reached under paragraph three, the Secretary-General shall make the appointment within ten days and where the arbitrators fail to appoint a Chairman within the time prescribed the Secretary-General shall make the appointment within ten days.

5. Notwithstanding paragraphs 1, 2, 3 and 4, Members parties to a dispute may refer the matter to arbitration and consent to the Secretary-General appointing a sole arbitrator who shall not be a national of a party to the dispute.

Article 31
Rules of Procedure of Arbitral Tribunal

1. Subject to the relevant provisions of this Agreement, the Arbitral Tribunal shall establish its own rules of procedure.

2. The procedures shall assure a right to at least one hearing before the Arbitral Tribunal as well as the opportunity to provide initial and rebuttal written submissions.

3. The Arbitral Tribunal's hearings, deliberations and initial report, and all written submissions to and communications with the Arbitral Tribunal, shall be confidential.

4. The Arbitral Tribunal may invite any Member to submit views orally or in writing.

5 The award of the Arbitral Tribunal shall be confined to the subject-matter of the dispute and shall state the reasons on which it is based.

6. Where the parties cannot agree on the interpretation or implementation of the award, either party may apply to the Arbitral Tribunal for a ruling within thirty days of the award. The term of the Arbitral Tribunal shall come to an end unless an application for a ruling has been received, in which case it shall continue for such reasonable time, not exceeding thirty days, as may be required to make the ruling.

7. Decisions of the Arbitral Tribunal shall be taken by a majority vote of its members and shall be final and binding on the Members parties to the dispute.

Article 32
Third Party Intervention

A Member which is not a party to a dispute, on delivery of a notification to the parties to a dispute and to the Secretary-General, shall be entitled to attend all hearings and to receive written submissions of the parties to a dispute and may be permitted to make oral or written submissions to the Arbitral Tribunal.

Article 33
Additional Information from Experts

Where proceedings have commenced, the Arbitral Tribunal may, on its own initiative or on the request of a party to the dispute, seek information and technical advice from any expert or body that it considers appropriate, provided that the parties to the dispute so agree and subject to such terms and conditions as the parties may agree.

Article 34
Expenses of Arbitral Tribunal

1. The expenses of the Arbitral Tribunal, including the fees and subsistence allowances of arbitrators and experts engaged for the purposes of a dispute, shall be borne equally by the Members parties to the dispute unless the Arbitral Tribunal, taking into account the circumstances of the case, otherwise determines.

2. Where a third party intervenes in the proceedings, the party shall bear the costs associated with the intervention.

Article 35
Signature

This Agreement shall be open for signature by any of the States or countries referred to in paragraph 1 of Article 3.

Article 36
Ratification

This Agreement and any amendments thereto shall be subject to ratification by signatory States in accordance with their respective constitutional procedures. Instruments of ratification shall be deposited with the Government of the host country which shall transmit certified copies thereof to the other signatory States.

Article 37
Entry into Force

This Agreement shall enter into force upon the deposit of the seventh instrument of ratification with the Government of the host country.

Article 38
Registration

This Agreement and any amendments thereto shall be registered with the Secretariat of the United Nations in accordance with Article 102 of the Charter.

Article 39
Accession

1. Any country to which paragraph 2 of Article 3 applies may accede to this Agreement and become a Contracting Party on such terms and conditions as the Council may decide.

2. Instruments of Accession shall be deposited with the Depositary.

Article 40
Withdrawal

1. A Contracting Party may withdraw from this Agreement by giving three years' notice in writing to the Depositary who shall promptly notify the other Contracting Parties accordingly and the withdrawal shall take effect three years after the date on which the notice has been received by the Depositary, unless the Contracting Party before the withdrawal becomes effective notifies the Depositary in writing of the cancellation of its notice of withdrawal.

2. A Contracting Party that withdraws from this Agreement undertakes to honour any financial or other obligations duly assumed as a Contracting Party; this includes any matter relating to an appeal filed before withdrawal becomes effective.

Article 41
Implementation

The Contracting Parties shall take all necessary action, whether of a legislative, executive or administrative nature, for the purpose of giving effect to this Agreement. Such action shall be taken as expeditiously as possible, and the Director shall be informed accordingly.

IN WITNESS WHEREOF the undersigned duly authorised in that behalf by their respective Governments have executed this Agreement.

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THE CARIBBEAN REGIONAL FISHERIES MECHANISM

The Caribbean Regional Fisheries Mechanism is an institutional arrangement aimed at deepening regional integration in the management of regional marine resources. The Mechanism is one output of the CARICOM Fisheries Resource Assessment and Management Programme (CFRAMP) which is jointly funded by the Member States of the Caribbean Community (CARICOM) and the Government of Canada through the Canadian International Development Agency (CIDA). The genesis of the Caribbean Regional Fisheries Mechanism (CRFM) is a concept paper in 1996 which captured the imagination and aspirations of CARICOM Member States in terms of the need for a regional fisheries mechanism. The concept paper which identified possible functional areas of endeavour to be addressed, resources required to develop and manage the facility, and the need for a strategic plan or vision for its development, was circulated to CARICOM Member States for information and reaction. This was followed by region-wide consultations undertaken by Dr. Roderick Rainford, former Secretary-General of CARICOM and Dr. Carlyle Mitchel, former Head of the OECS Economic Affairs Unit in February 1998. These consultations resulted in a report entitled "A Regional Fisheries Mechanism for CARICOM". This report was examined in a series of regional workshops attended by representatives of Ministries of Agriculture and Fisheries, Foreign Affairs, Legal Affairs of Member States and regional specialists in the areas of fisheries biology, finance, law, management which resulted in a Proposal for the Establishment of the Caribbean Regional Fisheries Mechanism in November 2000. This Proposal was subsequently examined and refined by the Drafting Committee of the Legal Affairs Committee of CARICOM which finally approved the instrument at its fifth ordinary meeting in Port-of-Spain, Trinidad and Tobago, on November 28 to30, 2001.

The objectives of the CRFM have been identified as the efficient management and sustainable development of marine and other aquatic resources within the jurisdiction of Member States; the promotion and establishment of cooperative arrangements among interested States for the efficient management of shared, straddling or highly migratory marine and other resources, and the provision of technical, advisory and consultative services to fisheries divisions of CARICOM Member States in the development, management and conservation of their marine and other aquatic resources. Pursuant to these objectives the Mechanism is obliged to employ guiding principles based on capacity building, post harvest technology, professional capacity building, data production and dissemination, public awareness building, promotion of institutional networking,

promotion of international trade standards and the fostering of cross-border cooperation in fisheries management.

The institutional arrangements proposed for the Mechanism are based on an interactive network of a variety of stakeholders in fisheries. At the base of these institutional arrangements is the Ministerial Council which determines the policy of the Mechanism, the Caribbean Fisheries Forum which determines the technical and scientific work of the institution and the Caribbean Technical Fisheries Unit staffed by managerial, technical and scientific personnel and which is designed to function as the technical and administrative secretariat of the mechanism. During inter-sessional periods, the Fisheries Forum is Executive Committee will function *ad referendum* the Forum. The Mechanism will possess full juridical personality with capacity to contract, acquire and dispose of moveable and immoveable property and to institute legal proceedings. In any legal proceedings the Mechanism will be represented by the Director. The Mechanism will enjoy a range of privileges and immunities in Member States and is required to conclude an appropriate headquarters agreement with the Government of Belize.

Among the significant benefits expected to be derived from closer cooperation in fisheries among the CARICOM Member States are increased food security through a more sustained supply of sea foods with enhanced stability in employment; institutional capacity building through the sharing of managerial and technical expertise, the training of staff and transfer of technology, the strengthening of institutional capacity; the accessing of financial resources for the fisheries sector and enhanced efficiency in the employment of limited human and financial resources of CARICOM Member States.

AGREEMENT ESTABLISHING THE CARIBBEAN REGIONAL FISHERIES MECHANISM

The States parties:

Convinced of the need to promote sustainable use of the living marine and other aquatic resources by the development, efficient management and conservation of such resources;

Convinced further of the intrinsic and non-extractive value and interdependence of the living marine and other aquatic resources;

Acknowledging that under international law, coastal States have sovereign rights for the purpose of exploring, exploiting, conserving and managing the living and non-living resources of their exclusive economic zones and their fisheries zones;

Conscious that certain of the living marine resources which are of interest to the peoples of the Caribbean Region are highly migratory, straddle national boundaries and are harvested by third States;

Recognising that the unsustainable exploitation of the living marine and other aquatic resources can lead to irreparable damage to those resources;

Noting that there are international institutions, bodies and competent organisations, the policies and programmes of which may be relevant to the living marine and other aquatic resources of interest to Member States;

Recognising further the need for co-operation and consultation among all the States Parties to this Agreement, third States, interested international institutions and bodies involved in fisheries in the Caribbean Region;

Recognising also the need of the States Parties for specific assistance including financial, scientific and technological assistance in the area of fisheries management, development, conservation and sustainable use;

Aware of the relevant provisions of the Third United Nations Convention on the Law of the Sea (1982); the FAO Code of Conduct for Responsible Fisheries (1995); the Agreement to promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (1993); the United Nations Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks (1995); Sustainable Development of the Programme of Action for Small Island Developing States (1994), and the Protocol Concerning Specially Protected Areas and Wildlife in the Wider Caribbean (1990);

Noting further Resolution 54/225 of the United Nations General Assembly, dated 15 February 2000 on Promoting an Integrated Management Approach to the Caribbean Sea area in the context of sustainable development;

Convinced that this Agreement will serve to enhance co-operation in the area of fisheries among States Parties and interested third parties, thereby contributing to the general well-being of the peoples of the Caribbean Region;

Bearing in mind the Revised Treaty of Chaguaramas (2001) Establishing the Caribbean Community including the CARICOM Single Market and Economy,

Have agreed as follows:

Article 1
Use of Terms

In this Agreement, unless the context otherwise requires:

"the Caribbean Community" (hereinafter referred to as "CARICOM") means the organisation established by the Treaty of Chaguaramas and the Protocols thereto:

"the Caribbean Fisheries Forum" means the organ established by Article 6(b) of this Agreement;

"competent organisations" means any group or body formed by two or more States in a co-operative arrangement for the sustainable use of shared, straddling or highly migratory stocks or of a particular specie of marine or other aquatic resources and recognised as such by other States, fishers of the same stock or specie;

"the Ministerial Council" means the organ established by Article 6(a) of this Agreement;

"the Mechanism" means the Caribbean Regional Fisheries Mechanism established by Article 2 of this Agreement;

"the Secretary-General" means the Secretary-General of CARICOM;

" the Caribbean Technical Fisheries Unit" (hereinafter referred to as "the Technical Unit") means the organ established by Article 6(c) of this Agreement.

Article 2
Establishment

1. There is hereby established the Caribbean Regional Fisheries Mechanism (hereinafter referred to as "the Mechanism").

2. The Headquarters of the Mechanism shall be located in Belize.

3. The Mechanism shall establish elsewhere within the CARICOM Region such other offices as may be considered necessary for the performance of its functions.

4. The Mechanism shall conclude a Headquarters Agreement with the Government of Belize setting out the privileges and immunities to be recognised and granted by the Government of Belize.

Article 3
Membership

1. Membership of the Mechanism shall be open to Member States and Associate Members of CARICOM.

2. The Ministerial Council may admit as an Associate Member of the Mechanism any State or Territory of the Caribbean Region which in its opinion is able and willing to discharge its obligations under this Agreement.

3. States mentioned in paragraph 1 of this Article which have signed this Agreement in accordance with Article 35 or acceded to it in accordance with Article 38 shall become Members of the Mechanism.

4. States or Territories mentioned in paragraph 2 of this Article which have concluded an association agreement with the Mechanism shall become Associate Members of the Mechanism.

Article 4
Objectives of the Mechanism

The Mechanism shall have as its objectives;

(a) the efficient management and sustainable development of marine and other aquatic resources within the jurisdictions of Member States;

(b) the promotion and establishment of co-operative arrangements among interested States for the efficient management of shared, straddling or highly migratory marine and other aquatic resources;

(c) the provision of technical advisory and consultative services to fisheries divisions of Member States in the development, management and conservation of their marine and other aquatic resources.

Article 5
General Principles

In pursuance of its objectives, the Mechanism shall be guided by the following principles:

(a) maintaining bio-diversity in the marine environment using the best available scientific approaches to management;

(b) managing fishing capacity and fishing methods so as to facilitate resource sustainability;

(c) encouraging the use of precautionary approaches to sustainable use and management of fisheries resources;

(d) promoting awareness of responsible fisheries exploitation through education and training;

(e) according due recognition to the contribution of small scale and industrial fisheries to employment, income and food security, nationally and regionally, and

(f) promoting aquaculture as a means of enhancing employment opportunities and food security, nationally and regionally.

Article 6
Organs of the Mechanism

The Mechanism shall be composed of:

(a) the Ministerial Council;

(b) the Caribbean Fisheries Forum (hereinafter called "the Forum");

(c) the Technical Unit.

Article 7
The Ministerial Council

1. Each Member of the Mechanism shall nominate a Minister of Government to represent it on the Ministerial Council and such representative shall have one vote.

2. The Ministerial Council shall meet in regular session once a year and in such special sessions as may be necessary to perform its functions.

3. The Ministerial Council shall determine the policy of the Mechanism. In particular, the Ministerial Council shall:

(a) promote the efficient management, conservation and development of shared, straddling and highly migratory marine and other aquatic resources of the Caribbean Region through attainment of competence over the resources and through co-operation with competent organisations as the case may be;

(b) develop and maintain relations with national, sub-regional and regional institutions and bodies and international institutions and organisations the work of which have an impact on the fisheries within the Region;

(c) promote and facilitate human resource training and development in the fisheries sub-sector at the professional, technical and vocational levels in Member States;

(d) promote and support programmes designed to establish, facilitate and strengthen fisheries research, including the acquisition and sharing of relevant data in Member States;

(e) promote and encourage technical co-operation in the fisheries sub-sector, including technology transfer, information exchange and networking among States of the Caribbean Region and beyond;

(f) encourage co-operation among the Member States in order to avoid disputes or to resolve them in a peaceful manner;

(g) support efforts aimed at ensuring safe, healthy and fair working and living conditions for fishers and fish workers;

(h) consider the annual reports and make decisions in response to recommendations and requests from the Forum;

(i) approve the Budget, Annual Audited Accounts and Procurement Procedures of the Mechanism and Strategic Plan and Work Programme of the Technical Unit;

(j) appoint the Director and Deputy Director of the Technical Unit;

(k) receive and consider policy proposals from the Forum;

(l) approve co-operative arrangements proposed by the Forum;

(m) approve recommendations for States or Territories to be admitted as Associate Members;

(n) approve recommendations for groups, institutions and bodies whose work contribute to the work of the Mechanism to be admitted to the Forum, as Observers;

(o) review the work of the Technical Unit;

(p) submit annual reports to the Council for Trade and Economic Development (COTED) and the Council for Foreign and Community Relations (COFCOR).

4. Subject to the provisions of this Article and Article 18, the Ministerial Council shall determine its own rules of procedure.

Article 8
Composition of the Forum

1. The Forum shall comprise:

(a) one representative of each Member of the Mechanism;

(b) one representative of each Associate Member of the Mechanism;

(c) representatives of the following groups, institutions and bodies, approved by the Ministerial Council as Observers:

(i) Fisher Folk Organisations and Private Fishing Companies within the Caribbean Region;

(ii) Regional bodies and institutions and regional organisations whose work in the area of fisheries contribute to the work of the Mechanism;

(iii) Non-Governmental Organisations whose work in the area of fisheries contribute to the work of the Mechanism.

2. The Forum shall elect a chairman from among the Members of the Mechanism and, subject to this Agreement, shall establish its own rules of procedure.

Article 9
Functions of the Forum

Subject to paragraph 3 of Article 7, the Forum shall determine the technical and scientific work of the Mechanism and, in particular, the Forum shall:

(a) promote the protection and rehabilitation of fisheries habitats and the environment generally;

(b) encourage the use of post-harvest practices in the fisheries sub-sector that maintain the nutritional value and quality of products;

(c) encourage the establishment of effective mechanisms for monitoring, control and surveillance of fisheries exploitation;

(d) recommend for approval by the Ministerial Council, arrangements for sustainable fisheries management and development in Member States based upon the best available technical or scientific data and information;

(e) recommend for approval by the Ministerial Council, co-operative and other arrangements relating to fisheries;

(f) review the arrangements recommended by the Technical Unit for sustainable fisheries management and development in Member States;

(g) examine and consider action taken by Member States and third States which may prejudice arrangements for sustainable fisheries management and development;

(h) receive reports on new arrangements made between Member States and third States with respect to the conservation and management of fisheries;

(i) receive reports on such activities as may from time to time be entrusted to sub-committees or interest groups of the Forum;

(j) receive and examine the draft Work Plan and Budget of the Mechanism and submit recommendations thereon to the Ministerial Council;

(k) determine from time to time the priorities for the Work Programme of the Mechanism;

(l) approve the staff regulations recommended by the Technical Unit;

(m) undertake such other functions as from time to time may be entrusted to it by the Ministerial Council.

2. The Forum shall convene in regular sessions once a year and in such special sessions as it considers necessary to perform its functions.

Article 10
The Executive Committee

1. There shall be established at the first regular session of the Forum an Executive Committee of the Forum which shall comprise [seven] Members, of whom [five] shall be Members of the Mechanism and two (2) Associate Members.

2. The Director of the Technical Unit shall be an ex-officio Member of the Executive Committee.

3. The members of the Executive Committee shall be elected annually. The Chairman of the Executive Committee shall be elected from among the Members of the Mechanism.

4. Decisions of the Executive Committee shall be reached by a majority of the Members present and voting. In the event of a tie, the Chairman shall exercise a casting vote.

5. The Executive Committee shall function as necessary between meetings of the Forum using, as appropriate, modern communication facilities, and shall keep the Forum informed of its activities.

Article 11
Sub-committees of the Forum

1. The Forum may establish such Sub-Committees as may be considered necessary for the fulfillment of its functions.

2. Such Sub-Committees may comprise representatives of Member States, Associate Members and interest groups whose activities within the Caribbean Region are of interest to the Mechanism.

3. Sub-Committees so formed shall determine their own method of work and shall keep the Forum informed of their activities.

Article 12
Composition of the Technical Unit

1. The Technical Unit shall be the permanent Secretariat of the Mechanism and shall be adequately provided with the managerial, technical, scientific and support staff to enable it to discharge the mandate of the Mechanism.

2. The Technical Unit shall comprise a Director, a Deputy Director and such other technical and administrative staff as may be necessary for the fulfillment of the functions of the Mechanism.

3. The Director shall be the Chief Executive Officer of the Mechanism and shall exercise full responsibility for all aspects of the work of the Mechanism.

4. The Director shall be appointed by the Ministerial Council on the recommendation of the Forum and shall serve for a period of three years and be eligible for reappointment.

5. The Director shall report annually to the Ministerial Council on the work of the Mechanism.

6. The Director shall be assisted by a Deputy Director who shall also be appointed by the Ministerial Council on the recommendation of the Forum.

7. The other staff of the Technical Unit shall be appointed by the Director.

8. In the appointment of the staff of the Technical Unit, due consideration shall be given to the principle of equitable geographical representation.

9. The officials of the Technical Unit shall enjoy the status of international public servants whose loyalty shall be to the Mechanism. Members and Associate Members of the Mechanism undertake to respect the status of the officials of the Technical Unit.

Article 13
Functions of the Technical Unit

In the discharge of its functions, the Technical Unit shall:

(a) provide technical, consultative and advisory services to Member States in the development, assessment, management and conservation of marine and other aquatic resources and, on request, in the discharge of any obligations arising from bilateral and other international instruments;

(b) support and enhance the institutional capacity of Member States in fisheries' areas such as:

  (i) policy formulation;

  (ii) economics and planning;

  (iii) registration and licensing systems;

  (iv) information management;

  (v) resource monitoring, assessment and management;

  (vi) education and awareness building;

  (vii) harvest and post-harvest technologies;

(c) encourage, support and, as appropriate, provide effective regional representation at relevant international fora;

(d) collect and provide relevant data on fisheries resources, including sharing, pooling and information exchange;

(e) promote the conduct of trade in fish and fish products according to applicable agreements;

(f) act as the central co-ordinating body for the Mechanism;

(g) serve as the Secretariat to the Ministerial Council and the Forum;

(h) collaborate with national fisheries authorities;

(i) formulate the Work Programme, prepare and submit the Budget of the Mechanism to the Forum;

(j) implement the Work Programme recommended by the Forum and approved by the Ministerial Council, including the preparation of such technical and scientific papers as may be required;

(k) provide management and development advice and assistance, particularly in the areas of co-ordination, communication and technical scientific operations;

(l) establish, in consultation with the Member States, and where appropriate and approved by the Ministerial Council, a network of relationships comprising non-CARICOM States as well as CARICOM and non-CARICOM organisations, bodies and institutions whose work and interest coincide with that of the Mechanism;

(m) develop projects for execution both in the Member States and regionally;

(n) seek and mobilise financial and other resources in support of the functions of the Mechanism;

(o) represent the Mechanism or, at the request of any Member State or group of Member States, represent them at meetings of international bodies and organisations which are concerned with fisheries in the Caribbean and whose objectives and activities coincide with those of the Mechanism;

(p) receive applications for Associate Membership or Observer Status and make recommendations in respect of such applications to the Forum;

(q) address urgent or ad hoc requests outside of the regular Work Programme presented by Member States;

(r) collaborate with the Executive Committee between meetings of the Forum in the execution of its functions;

(s) recommend to the Forum the staff regulations of the Mechanism.

Article 14
Decision-Making

1. Every Member of the Mechanism shall have one vote in its deliberative organs. Every Associate Member shall have one vote in respect of matters for which it is eligible to vote.

2. Unless otherwise provided, decisions of the deliberative organs of the Mechanism shall be reached by consensus. In the absence of consensus decisions shall be deemed adopted, if supported by a qualified majority of three-quarters (¾) of the Member States comprising the Mechanism.

3. The quorum of the Ministerial Council shall be formed by two-thirds (b) of its Members. The quorum of the Forum shall be formed by two-thirds (b) of its Members and must include at least two-thirds (b) of the Member States of the Mechanism. The quorum of the Executive Committee shall be formed by at least three (3) / five (5) of the Member States of the Mechanism.

4. The Member States may vote in any organ or sub-committee of the Mechanism. Associate Members may participate in discussions in the Forum and its Sub-Committees but are eligible to vote only where decisions are being taken on management regimes to which they are parties or concerning fisheries which they share with other Member States.

5. Observers shall not have the right to vote at meetings of any of the organs comprising the Mechanism.

6. A Member State or Associate Member which is absent from a meeting of any organ or body of the Mechanism and is prejudiced by a decision taken at that meeting shall have the right to request a review of the decision, and the organ or body which took that decision shall review it.

Article 15
Financing of the Mechanism

1. Member States and Associate Members shall pay such annual contributions as are agreed by the Ministerial Council.

2. Observers shall pay such subscriptions as are levied from time to time for attendance at particular meetings of an organ of the Mechanism or at meetings of a Sub-Committee of the Mechanism.

3. Where a Member State is in arrears with its contribution and as a consequence thereof the Mechanism obtains overdraft facilities, the Member State in arrears shall bear the cost of the provision of such facilities.

4. The Technical Unit shall prepare annual accounts which shall be audited by the Auditors appointed by the Director of the Unit.

5. The Report of the Auditors shall be submitted to the Ministerial Council (MC) for consideration and approval.

Article 15(bis)
The Reserve Fund

1. The Mechanism shall establish a Reserve Fund along the lines set out in this Article.

2. The resources of the Reserve Fund shall consist of the following:

(a) grants from international donors and sponsors of the Mechanism;

(b) grants from Member States and Associate Members;

(c) grants from entities, public and private, which are not sponsors of the Mechanism;

(d) unspent balances from the regular budgets of the Mechanism;

(e) revenues derived from the operations of the Mechanism;

(f) income from investments of the Mechanism.

3. The resources of the Reserve Fund shall be used to finance as required the regular and capital budgets of the Mechanism.

4. Withdrawal of resources from the Reserve Fund shall require the prior authorisation of the Ministerial Council.

5. The resources of the Reserve Fund shall be held in such liquid form as the Ministerial Council may determine, provided that whenever it is in the interest of the

Mechanism, the resources of the Reserve Fund may be invested in the securities of the Region.

6. Investments mentioned in paragraph 5 shall be made by the Director of the Unit with the approval of the Ministerial Council.

7. The finances of the Reserve Fund shall be audited annually by the auditors appointed by the Director of the Technical Unit (TU) to audit its accounts. The Report of the Auditors shall be submitted to the Ministerial Council for consideration and approval.

Article 16
The Budget

1. The Budget of the Mechanism shall be prepared by the Technical Unit and presented to the Ministerial Council for approval after examination and recommendation by the Forum.

2. The Budget shall be so prepared as to ensure financing of the Work Programme of the Technical Unit.

3. The Budget shall be approved by consensus, failing which it shall be approved by a qualified majority of three-quarters (¾) of the Members of the Mechanism.

4. The regular Budget shall comprise:

(a) annual contributions from Member States and Associate Members;

(b) contributions from co-operating partners or other contributors;

(c) grant funds received from regional and international donor agencies;

(d) funds paid by donor agencies to the Mechanism for project execution services provided by the Mechanism with respect to projects financed by the donor agencies;

(e) earnings above cost for special services provided by the Mechanism to commercial operators in the fishing industry and to other bodies;

(f) income derived from the sale or the licensing of intellectual property created and owned by the Mechanism;

(g) any other source of funding.

Article 17
Provisional Budgetary Measures

1. The Mechanism is authorised to commit provisionally and pending approval of the Budget, expenditure not exceeding one-fifth (1/5) of the regular Budget for the previous year.

2. The Mechanism is also authorised to obtain overdraft facilities to this end.

Article 18
Sanctions for Non-payment of Contributions

1. Subject to paragraph 2, a Member State whose contributions to the regular Budget of the Mechanism is in arrears for more than two years, shall not have the right to vote.

2. In exceptional circumstances to be determined by the Ministerial Council, a defaulting Member State may be permitted to vote pending the payment of its arrears of contributions.

Article 19
Status, Privileges and Immunities

Member States shall accord to the Mechanism within their jurisdictions, the status, immunities, exemptions and privileges set out in Articles 20 to 27 in order to enable it to effectively fulfil its objectives and carry out the functions entrusted to it.

Article 20
Legal Status of the Mechanism

1. The Mechanism shall possess full juridical personality and, in particular, full capacity to:

(a) contract;

(b) acquire and dispose of moveable and immoveable property;

(c) institute legal proceedings.

2. The Mechanism may enter into agreements with Member States, third States and other international organisations for the achievement of its objectives.

3. In any legal proceedings, the Mechanism shall be represented by the Director.

Article 21
Legal Process

1. The Mechanism shall be immune from every form of legal process, except in cases arising out of or in connection with the purchase of land, securities or merchantable commodities, in which cases actions may be brought against the Mechanism in a court of competent jurisdiction in the Territory of a Member State in which the Mechanism has an office or in a third State where the Mechanism has appointed an agent for the purpose of accepting service or notice of process.

2. Notwithstanding the provisions of paragraph 1, no action shall be brought against the Mechanism by a Member State or any agency thereof, or by any entity or person directly or indirectly acting for or deriving claims from a Member State. Member States shall have recourse to such special procedures for the settlement of disputes between the Mechanism and its Member States as may be provided for in this Agreement.

3. The Mechanism, its property and assets wheresoever located and by whomsoever held, shall be immune from all forms of seizure, attachment or execution before delivery of final judgment against the Mechanism.

4. Nothing in this Agreement shall be construed as disentitling a person aggrieved by a motor vehicle accident from instituting legal proceedings against the Mechanism, its officials, representatives or experts.

Article 22
Immunity of Assets and Archives

1. Property and assets of the Mechanism, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive or legislative action.

2. The archives of the Mechanism and, in general, all documents belonging to or held by the Mechanism, shall be inviolable, wherever located.

Article 23
Freedom of Assets from Restrictions

To the extent necessary to achieve the objectives and perform the functions of the Mechanism effectively, and subject to the provisions of the Agreement, the Mechanism:

(a) may hold assets of any kind and operate accounts in any currency;

(b) shall be free to transfer its assets from one country to another or within any country, and to convert any currency held by it into any other currency, without being restricted by financial controls, regulations or moratoria of any kind.

Article 24
Privilege For Communications

Official communications of the Mechanism shall be accorded by each Member State, treatment not less favourable than it accords to the official communications of any similar inter-governmental organisation.

Article 25
Privileges and Immunities of Mechanism Personnel

1. Members and Advisers of the Ministerial Council and the Forum, Officials of the Mechanism and Experts performing missions for the Mechanism:

(a) shall be immune from legal process in respect of acts performed by them in their official capacity;

(b) shall, unless they are nationals, be accorded such immunities from immigration restrictions, alien registration requirements and national service obligations, and such facilities as regards exchange regulations as are not less favourable than those accorded by Member States concerned to the representatives, officials and experts of comparable rank of any other Member State;

(c) shall be granted such repatriation facilities in time of international crisis as are not less favourable than those accorded by the Member States concerned to the representatives, officials and experts of comparable rank of any other Member State.

2. The Director shall notify Member States of the Officials and Experts to be accorded the immunities in paragraph 1.

Article 26
Exemption from Taxation

1. The Mechanism, its assets, property, income, operations and transactions shall be exempt from all direct taxation and from all customs duties on goods imported for its official use.

2. Notwithstanding the provisions of paragraph 1 of this Article, the Mechanism shall not claim exemption from taxes which are no more than charges for public utility services.

3. The Mechanism will not normally claim exemption from excise duties and from taxes on the sale of moveable and immoveable property which form part of the price to be paid. Nevertheless, where the Mechanism is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Member States shall, whenever possible, make appropriate administrative arrangements for the remission or the return of the amount of duty or tax.

4. Articles imported under an exemption from customs duties as provided by paragraph 1 of this Article, or in respect of which a remission or return of duty or tax has been made under paragraph 3, shall not be sold in the territory of the Member State granting the exemption, remission or retrieve except under conditions agreed with the Member State.

5. No tax shall be levied on or in respect of salaries and emoluments paid by the Mechanism to the Directors, officials or experts performing missions for the Mechanism. However, Member States reserve the right to tax their own citizens, nationals or persons permanently resident in the territories of such Member States.

Article 27
Waiver of Immunities, Exemptions and Privileges

1. The exemptions, immunities and privileges provided in Articles 21-27 are granted in the interest of the Mechanism. The Council may waive to such extent and upon such conditions as it may determine, the immunities, exemptions and privileges provided in the said Articles in cases where such action would, in its opinion, be appropriate in the best interest of the Mechanism.

2. The Director shall have the right and duty to waive any immunity, exemption or privilege in respect of any official or expert performing a mission for the Mechanism where, in his opinion, the immunity, exemption or privilege would impede the course of justice and could be waived without prejudice to the interests of the Mechanism.

3. In similar circumstances and under the same conditions, the Ministerial Council shall have the right and duty to waive any immunity, exemption or privilege in respect of the Director.

Article 28
Implementation

Every Member State shall take appropriate steps to make the provisions of Articles 21-27 effective within its jurisdiction and shall inform the Mechanism promptly.

Article 29
Questions of Interpretations and Application

1. Any question of interpretation or application of the provisions of this Agreement not otherwise expressly provided for shall be submitted to the Ministerial Council for decision.

2. In any case where the Ministerial Council has given a decision under paragraph 1 of this Article, any Member State may require that the question be referred to an arbitral tribunal whose decision shall be final. Pending the decision of the arbitral tribunal, the Mechanism, as it considers necessary, may act on the basis of the decision of the Ministerial Council.

Article 30
Constitution of Arbitral Tribunal

1. Each Party to a dispute shall be entitled to appoint one arbitrator. The two arbitrators chosen by the parties shall be appointed within fifteen days following the decision to refer the matter to arbitration. The two arbitrators shall, within fifteen days following the date of their appointments, appoint a third arbitrator who shall be the Chairman. As far as practicable, the arbitrators shall not be nationals of any of the parties to the dispute.

2. Where either party to the dispute fails to appoint its arbitrator under paragraph 1, the Secretary-General shall appoint the arbitrator within ten days. Where the arbitrators fail to appoint a Chairman within the time prescribed, the Secretary-General shall appoint a Chairman within ten days.

3. Where more than two Member States are parties to a dispute, the parties concerned shall agree among themselves on the two arbitrators to be appointed within fifteen days following the decision to refer the matter to arbitration and the two arbitrators shall within fifteen days of their appointment appoint a third arbitrator who shall be the Chairman.

4. Where no agreement is reached under paragraph 3, the Secretary-General shall make the appointment within ten days and where the arbitrators fail to appoint a Chairman within the time prescribed the Secretary-General shall make the appointment within ten days.

5. Notwithstanding paragraphs 1, 2, 3 and 4, Parties to a dispute may refer the matter to arbitration and consent to the Secretary-General appointing a sole arbitrator who shall not be a national of a party to the dispute.

Article 31
Rules of Procedure of Arbitral Tribunal

1. Subject to the relevant provisions of this Agreement, the Arbitral Tribunal shall establish its own rules of procedure.

2. The procedures shall assure a right to at least one hearing before the Arbitral Tribunal as well as the opportunity to provide initial and rebuttal written submissions.

3. The Arbitral Tribunal's hearings, deliberations and initial report, and all written submissions to and communications with the Arbitral Tribunal, shall be confidential.

4. The Arbitral Tribunal may invite any Member State to submit views orally or in writing.

5 The award of the Arbitral Tribunal shall be confined to the subject-matter of the dispute and shall state the reasons on which it is based.

6. Where the parties cannot agree on the interpretation or implementation of the award, either party may apply to the Arbitral Tribunal for a ruling within thirty days of the award. The term of the Arbitral Tribunal shall come to an end unless an application for a ruling has been received, in which case it shall continue for such reasonable time, not exceeding thirty days, as may be required to make the ruling.

7. Decisions of the Arbitral Tribunal shall be taken by a majority vote of its members and shall be final and binding on the Parties to the dispute.

Article 32
Third Party Intervention

A Member State which is not a party to a dispute, on delivery of a notification to the parties to a dispute and to the Secretary-General, shall be entitled to attend all hearings and to receive written submissions of the parties to a dispute and may be permitted to make oral or written submissions to the Arbitral Tribunal.

Article 33
Additional Information from Experts

Where proceedings have commenced, the Arbitral Tribunal may, on its own initiative or on the request of a party to the dispute, seek information and technical advice from any expert or body that it considers appropriate, provided that the parties to the dispute so agree and subject to such terms and conditions as the parties may agree.

Article 34
Expenses of Arbitral Tribunal

1. The expenses of the Arbitral Tribunal, including the fees and subsistence allowances of arbitrators and experts engaged for the purposes of a dispute, shall be borne equally by the Member States Parties to the dispute unless the Arbitral Tribunal, taking into account the circumstances of the case, otherwise determines.

2. Where a third party intervenes in the proceedings, the party shall bear the costs associated with the intervention.

Article 35
Entry into Force

This Agreement shall enter into force upon the signature by any [7] of the States mentioned in paragraph 1 of Article 3.

Article 36
Accession

1. Any country to which paragraph 1 of Article 3 applies may accede to this Agreement.

2. Instruments of Accession shall be deposited with the Secretary-General.

Article 37
Associate Membership

1. Any State or Territory mentioned in paragraph 2 of Article 3 may, upon application to the Forum for associate membership, be admitted as an Associate Member of the Mechanism in accordance with paragraph 2 of this Article.

2. Upon an application made pursuant to paragraph 1 of this Article, the Ministerial Council shall make a determination on the application. When the determination is in the affirmative, the Ministerial Council shall determine the conditions of associate membership.

Article 38
Registration

This Agreement and any amendments thereto shall be registered with the Secretariat of the United Nations in accordance with Article 102 of the Charter.

Article 39
Withdrawal

1. A Contracting Party may withdraw from this Agreement by giving one year's notice in writing to the Depositary who shall promptly notify the other Contracting Parties accordingly and the withdrawal shall take effect one year after the date on which the notice has been received by the Depositary, unless the Contracting Party before the withdrawal becomes effective notifies the Depositary in writing of the cancellation of its notice of withdrawal.

2. A Contracting Party that withdraws from this Agreement undertakes to honour any financial or other obligations duly assumed as a Contracting Party; this includes any matter relating to an appeal filed before withdrawal becomes effective.

Article 40
Implementation

The Contracting Parties shall take all necessary action, whether of a legislative, executive or administrative nature, for the purpose of giving effect to this Agreement.

Such action shall be taken as expeditiously as possible, and the Director shall be informed accordingly.

IN WITNESS WHEREOF the undersigned duly authorised in that behalf by their respective Governments have executed this Agreement.

31

CARICOM REGIONAL ORGANISATION FOR STANDARDS AND QUALITY (CROSQ)

The question concerning when the CARICOM Single Market and Economy (CSME) will come into being is frequently posed. To this question the response must be that the CARICOM Single Market and Economy is not an event but a process. Consequently, the CSME will not automatically come into being when the Revised Treaty of Chaguaramas enters into force or is provisionally applied, pending its definitive entry into force. The coming into operation of the Revised Treaty either by provisional application or formal entry into force is but one step, albeit an important step, in the process which may be expected to be protracted. Putting the CSME into operation is dependent *inter alia*, on the coming on stream of several important institutions of which the CARICOM Regional Organisation for Standards and Quality is one. Other important institutions in this context are the Caribbean Court of Justice, the Regional Competition Commission, the Regional Accreditation Organisation and the Regional Intellectual Property Rights Office; all of which are to a greater or lesser extent indispensable for the efficient functioning of the CSME.

As mentioned in the Introduction, the establishment of the CARICOM Single Market and Economy evidenced a significant paradigm shift on the part of competent decision-makers of CARICOM. In the previous dispensation, as set out in the original Treaty of Chaguaramas, the emphasis was on inward looking, protectionist, import substitution which differed from the emphasis in the CSME on export-led, internationally competitive production of goods and services. In fact, given the twin phenomena of globalisation and liberalisation, this new paradigm is critical for ensuring regional survival in an intensely competitive international environment. For even when goods and services are being produced for the regional domestic market they are vulnerable to competition from third States. This fact underscores the need for the Region to produce and provide internationally competitive goods and services.

For goods and services produced and provided in the Region to be internationally competitive, they will have to satisfy the expectations of the consumer who is now better informed about quality requirements on account of the communications revolution and easy access to information. For regional products it cannot be business as usual where manufacturers of inferior products were assured regional markets by high protective barriers. Consequently, quality considerations currently bulk large in the productive process and conformity assessment procedures assume a new significance. This explains the thrust of the preambular paragraph of the Agreement establishing CROSQ which expressly recognises

that the formulation and application of internationally accepted standards, technical regulations, conformity assessment procedures and metrology on a regional basis would be cost effective and enhance the international competitiveness of goods and services produced or provided in the CARICOM Single Market and Economy.

Membership of CROSQ is open to Member States of the Caribbean Community. States and political entities of the Association of Caribbean States (ACS) which, in the opinion of the Council, are willing and able to enjoy the rights and assume the obligations of membership set out in the Agreement, may be accorded the status of associate membership of CROSQ. The objectives of CROSQ are the establishment and harmonisation of standards for the enhanced efficiency and improved quality in the production of goods and services in the Community thereby facilitating consumer and environmental protection and improved trade within the Community and with third States. CROSQ consists of a Council, Special Committees and a Secretariat. The composition of the bodies of CROSQ emphasise the fact of its status as a technical body. Thus, the Council comprises the heads of Standards bodies of the States Parties and the Special Committees consist of nominees of States Parties and Associate Members drawn from the public and private sectors and who are expected to be specialists in relevant areas of expertise. Similarly, the Secretariat is expected to be more of a technical than an administrative organ. These expectations are supported by the functions identified respectively for the Special Committees and the Secretariat. Given, however, that the establishment of standards and technical regulations is not without extremely important policy implications for the development and functioning of the CSME, it was decided that COTED must be the determinant of CROSQ's policies and control CROSQ's budget.

CROSQ will have full juridical personality in the jurisdictions of Member States with capacity to contract, acquire and dispose of moveable and immoveable property and to sue and be sued in its own name. In any legal proceedings CROSQ will be represented by the Executive Secretary. CROSQ will enjoy in the jurisdiction of Member States such privileges and immunities as may be required to perform its functions efficiently. In the case of the host country these privileges and immunities will be set out in a headquarters agreement; in the case of other Member States the privileges and immunities to be recognised and granted to CROSQ will be set out in an appropriate Protocol to be elaborated for the purpose.

AGREEMENT ESTABLISHING THE CARICOM REGIONAL ORGANISATION FOR STANDARDS AND QUALITY

The States parties:

Recognising that liberalisation and globalisation in the world economy have intensified international competitiveness in the production of goods and services;

Conscious that the Caribbean Community is extremely vulnerable to penetration by products of sub-standard quality and specifications which could have serious, negative implications for consumer welfare and the integrity of the regional environment;

Aware that the establishment of the CARICOM Single Market and Economy constitutes the measured institutional response to current developments present in the international economy as a means of safeguarding and promoting fundamental values of the peoples of the Caribbean Community;

Acknowledging that the development and application of harmonised regional standards, technical regulations, conformity assessment procedures and metrology are essential for the efficient operation of the CARICOM Single Market and Economy and, in particular, the international competitiveness of goods and services produced or provided in the Caribbean Community;

Conscious also that the formulation and application of internationally accepted standards, technical regulations, conformity assessment procedures and metrology on a regional basis would be cost-effective and enhance the international competitiveness of goods and services produced or provided in the CARICOM Single Market and Economy;

Convinced that the development of regional standards, technical regulations, conformity assessment procedures and metrology would facilitate the operations and improve the delivery of national standards bodies of Member States of the Caribbean Community;

Noting that the formal establishment of an inter-governmental regional standardising organisation would entitle it to recognition by competent standardising international organisations resulting in important benefits to the Member States of the Caribbean Community in terms of technical assistance,

Have agreed as follows:

Article 1
Use of Terms

In this Agreement, unless the context otherwise requires:

"Community" means the Caribbean Community including the CARICOM Single Market and Economy (CSME) established by the Treaty;

"conformity assessment procedures" includes any procedure used, directly or indirectly to determine that relevant requirements in technical regulations or standards are fulfilled;

"COTED" means the Council for Trade and Economic Development, an Organ of the Community so named in paragraph 2(b) of Article 10 of the Treaty;

"metrology" means the science of measurement for the determination of conformance to technical requirements including the development of standards and systems for absolute and relative measurement;

"Secretariat" means the Secretariat of CROSQ;

"Secretary-General" means the Secretary-General of the Caribbean Community;

"standard" means a guideline approved by a recognised body that provides for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory. The term may also include or deal exclusively with terminology, symbols, packaging,

marking or labelling requirements as they apply to a product, process or production method;

"standards related-matters" includes technical regulations, conformity assessment procedures and metrology;

"technical regulations" means regulations which specify product characteristics or their related processes and production methods, including the applicable administrative provisions with which compliance is mandatory. The term may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method;

"Treaty" means the Treaty establishing the Caribbean Community signed at Chaguaramas on the 4th day of July 1973 as revised by the Treaty establishing the Caribbean Community including the CARICOM Single Market and Economy (CSME).

Article 2
Establishment

There is hereby established the CARICOM Regional Organisation for Standards and Quality (hereinafter referred to as "CROSQ") having its composition, objectives, functions and status as set out herein.

Article 3
Membership

1. Membership of CROSQ shall be open to Member States of the Community.

2. Associate membership may be accorded to Associate Members of the Community, States and political entities of the Association of Caribbean States which, in the opinion of the Council, are willing and able to enjoy the rights and assume the obligations of membership set out in this Agreement.

Article 4
Objectives

1. The primary objectives of CROSQ shall be the establishment and harmonisation of standards for the enhanced efficiency and improved quality in the production of goods and services in the Community, thereby facilitating consumer and environmental protection and improved trade within the Community and with third states.

2. Without prejudice to the generality of the provisions of paragraph1, CROSQ shall, inter alia:

(a) promote the development and harmonisation of standards, metrology, technical regulations and the mutual recognition of conformity assessment procedures covering goods and services produced or provided in the Community with the aim of facilitating trade and supporting the establishment of the CSME;

(b) encourage the mutual recognition of accreditation and certification systems which are based on internationally accepted criteria;

(c) facilitate the achievement of international competitiveness of regional goods and services by fostering a culture of quality in regional enterprises;

(d) support standards-infrastructure development at the national level;

(e) promote consumer welfare and safety;

(f) through its operations, contribute to the preservation of the environment and conservation of the natural resources of the Community;

(g) provide guidance to Community Organs and Bodies regarding matters within its competence, including disputes settlement;

(h) promote and protect the interests of States Parties and Associate Members in regional and international standardising fora, including external negotiations;

(i) promote awareness of standards and standards-related matters in governments, commerce, industry and consumers.

Article 5
Composition of CROSQ

CROSQ shall consist of:

(a) the Council;

(b) the Special Committees; and

(c) the Secretariat.

Article 6
Composition and Procedures of the Council

1. The Council shall consist of the executive heads of the national standards bodies of the States Parties. Each executive head of a national standards body of a State Party may designate an alternate to represent him or her at meetings of the Council. The Council shall elect a Chairman and Vice Chairman at its ordinary meetings who shall hold office for two years.

2. A simple majority of the members of the Council shall constitute a quorum.

3. Decisions of the Council on substantive issues shall be made by a two-thirds majority of the members of the Council. Decisions on procedural issues and recommendations shall be made by a simple majority of the members of the Council.

4. Ordinary meetings of the Council shall be convened at least once in every calendar year and may be held at the headquarters of CROSQ or any other agreed venue in the jurisdiction of a State Party determined by the Council. Extraordinary meetings of the Council shall be held in such jurisdiction of a State Party as the Council considers convenient provided that in exceptional circumstances electronic media may be employed.

5. The Council shall permit Associate Members to participate in its meetings but without the right to vote.

Article 7
Functions of the Council

1. The Council shall report annually to COTED which shall determine the policy of CROSQ, particularly the establishment or adoption of regional standards and technical regulations.

2. Subject to the provisions of paragraph 1, the Council shall, inter alia:

(a) recommend to COTED harmonised regional standards, for goods and services provided in the Community;

(b) recommend to COTED technical regulations for goods and services provided in the Community;

(c) promote mutual recognition of conformity assessment procedures and mutual acceptance of certification and accreditation;

(d) consider and adopt measures for the resolution of disputes between States Parties relating to standards and standards-related matters;

(e) approve the organisations with which CROSQ shall establish and maintain functional co-operation in relation to standards and standards related matters.

(f) appoint the Executive Secretary as provided for in paragraph 2 of Article 9 of this Agreement;

(g) approve the staff regulations recommended by the Secretariat;

(h) recommend to COTED the contributions of States Parties and Associate Members to the budget of CROSQ;

(i) recommend for approval the budget of CROSQ recommended by the Secretariat;

(j) recommend for approval the conditions of membership and associate membership of CROSQ; and

(k) provide oversight with respect to standards and standards-related matters;

(l) determine the programmes at which CROSQ may participate;

(m) determine the organisations in whose work CROSQ should participate as a member or observer as the case may be;

(n) approve the work programme of the Secretariat.

Article 8
Composition, Procedures and Functions of the Special Committees

1. Special Committees shall consist of the nominees of States Parties and Associate Members drawn from the public and private sectors.

2. Decisions of the Special Committees shall be made by consensus and shall constitute recommendations to the Council.

3. Special Committees shall meet as often as necessary to perform their functions efficiently and expeditiously.

4. The functions of the Special Committees shall include:

(a) the development, adoption, adaptation or harmonisation of standards and standards-related matters as the case may require, in all sectors that affect regional trade of goods and services among Member States;

(b) recommending standards and standards-related matters to the Council for action as is appropriate under this Agreement;

(c) commenting on proposed regional or international standards;

(d) the establishment or harmonisation of procedures within the Community concerning the assessment, certifying, auditing, accreditation of quality systems, testing laboratories, consultancies, trainers and personnel in specialised fields;

(e) providing, as mandated by the Council, technical assistance to educational institutions, private or state-owned companies or agencies or other entities in the Community and familiarising them with the application of standards and standards-related matters;

(f) establishing, in collaboration with the Secretariat, a general programme for the development of standards and the provision of technical equipment and trained human resources adequate for the foreseeable needs of the Community, for consideration and approval by the Council;

(g) such other functions as may be mandated by the Council.

Article 9
Composition of the Secretariat

1. The Secretariat shall consist of the Executive Secretary and such other staff as may be determined by the Council. The Executive Secretary shall be the chief executive officer of CROSQ.

2. The Executive Secretary shall be appointed by the Council for a period of not more than three years and shall be eligible for reappointment. Other staff of the Secretariat shall be appointed by the Executive Secretary on such terms and conditions as may be approved by the Council.

3. In the appointment of professional staff of the Secretariat, due consideration shall be given to equitable geographical representation of the membership of CROSQ.

4. In the performance of their functions, the staff of the Secretariat shall neither seek nor receive instructions from any source external to CROSQ.

Article 10
Functions of the Secretariat

Subject to the directions of the Council, the Secretariat shall perform the following functions:

(a) promote the development, harmonisation, application and maintenance of standards and standards-related matters;

(b) facilitate and mandate standards and metrology infrastructure development at national and regional levels;

(c) undertake training and promote education and information dissemination on standards and standards-related matters;

(d) participate in the activities of regional, hemispheric and international standardising bodies;

(e) conduct investigations in accordance with Article 12 of this Agreement;

(f) prepare annual and other reports for submission to the Council;

(g) prepare and recommend the budget of CROSQ to the Council;

(h) prepare and recommend the staff regulations to the Council;

(i) undertake such other related functions as may be determined by the Council.

Article 11
Adoption of Standards and Procedures

1. Special Committees may recommend standards and technical regulations to the Council for adoption.

2. Where the Council endorses a recommendation pursuant to paragraph 1, and commends it to COTED for approval, the States Parties shall, upon the approval of COTED, adopt appropriate legal and administrative arrangements to give effect to the decision of COTED within their respective jurisdictions.

Article 12
Conduct of Investigations

1. Subject to the provisions of this Article, CROSQ shall conduct investigations on issues arising out of standards and standards-related matters at the request of States Parties, Associate Members or the CARICOM Secretariat.

2. The Council on the recommendation of a State Party or on its own initiative may request the Secretariat to carry out investigations.

3. Where an investigation is being carried out, the investigating body shall not, in principle, include representatives or nationals from States Parties or Associate Members involved in the case. Such representatives may, however, be invited to appear before the investigating body concerned to give evidence.

4. The cost of conducting an investigation, including the costs of testing, research, consultancies or other expenses necessarily involved in the conduct of the investigation, shall be borne by the party requesting the investigation.

5. The Executive Secretary shall make satisfactory arrangements for recovery of the expenditure mentioned in paragraph 4.

6. Recommendations by the investigating body shall be submitted to the Executive Secretary who shall make a determination as soon as practicable for transmission to the party requesting the investigation.

7. An appeal may be made to the Council against the determination of the Executive Secretary and the decision of the Council shall be subject to judicial review.

8. States Parties and Associate Members shall undertake to provide and facilitate access to all relevant information for the purpose of the conduct of investigations.

Article 13
Funding of the Organisation

1. The revenues of CROSQ shall consist of the following:

   (a) contributions of States Parties and Associate Members;

   (b) donations or grants from sources approved by the Council;

   (c) fees derived from the conduct of investigations, training courses, consultancy engagements and other services performed by CROSQ;

   (d) fees for the use of any mark or standard mark owned or operated by CROSQ;

   (e) sales of CARICOM standards.

2. The Council shall not approve grants or donations required to be applied in a manner which discriminates among States Parties or Associate Members.

3. Representative or nominees of States Parties whose contributions to the budget of CROSQ are in arrears by more than two years shall lose the right to vote and hold office in the organs and bodies of CROSQ.

4. Representatives or nominees of Associate Members whose contributions to the budget of CROSQ are in arrears by more than two years shall lose the right to participate in the work of the organs and bodies of CROSQ.

Article 14
Status of the Organisation

1. CROSQ shall have full juridical personality.

2. States Parties shall in their jurisdictions accord to CROSQ the same capacity accorded to legal persons under their national laws, including the capacity to contract, acquire, hold and transfer movable and immovable property and to sue and be sued in its own name.

3. In any legal proceedings CROSQ shall be represented by the Executive Secretary.

4. CROSQ may conclude agreements with natural and other legal persons for the efficient performance of its functions.

5. States Parties hereby undertake to take such measures as may be required to make the provisions of this Article effective in their respective jurisdictions.

Article 15
Privileges and Immunities

1. The privileges and immunities to be recognised and granted by States Parties in connection with CROSQ shall be set out in a Protocol to this Agreement.

2. CROSQ shall conclude with the State Party in which the Headquarters is to be located an agreement relating to the privileges and immunities to be granted or accorded to CROSQ.

Article 16
Saving

Nothing in this Agreement shall be interpreted as impairing the validity of the provisions of any regional or international regime in which the States Parties participate.

Article 17
Signature

This Agreement shall be open for signature by the States mentioned in paragraph 1 of Article 3.

Article 18
Provisional Application

This Agreement may be provisionally applied by no less than eight signatories of the States mentioned in paragraph 1 of Article 3.

Article 19
Entry into Force

This Agreement shall definitively enter into force when it has been signed by the States mentioned in paragraph 1 of Article 3.

Article 20
Amendments

1. This Agreement may be amended by a decision of COTED on the recommendation of the Council.

2. Amendments shall enter into force one month after the date on which the last State Party to this Agreement has signed the amendment or such other date as the Council may decide.

Article 21
Associate Membership

1. Any State or entity mentioned in paragraph 2 of Article 3 may, upon application to the Council for associate membership be admitted as an associate member of CROSQ in accordance with paragraph 2 of this Article.

2. Upon an application made pursuant to paragraph 1 of this Article, the Council shall make a determination on such an application. Where the determination is in the affirmative, the Council shall determine the conditions of associate membership.

Article 22
Withdrawal

1. A State Party which has withdrawn from the Community shall be deemed to have withdrawn from CROSQ on the effective date of such withdrawal from the Community.

2. Any State Party or Associate Member may withdraw from CROSQ by giving at least twelve months' notice of withdrawal to the Secretariat.

3. A State Party or Associate Member so withdrawing undertakes to honour any outstanding financial obligations duly assumed by it during its membership of CROSQ.

IN WITNESS WHEREOF, the undersigned Heads of Government have appended their signatures to this Treaty.

32

THE CARIBBEAN DISASTER EMERGENCY RESPONSE AGENCY

Given the concatenation of natural disasters bedevilling the Caribbean region since the early twentieth century, it is somewhat surprising that the Caribbean Disaster Emergency Response Agency had such a long gestation period. As early as 1902, Martinique and St. Vincent had been devastated by volcanic eruptions followed by similar eruptions in Montserrat in 1996. Earthquakes have also disrupted normal life in the Region from time to time, including Jamaica (1902), Puerto Rico (1918), the Dominican Republic (1946) and Antigua and Barbuda (1974). The Region is also noted for its fearsome hurricanes which have become an annual event, devastating Barbados in 1955; Haiti, Jamaica, Cuba and Trinidad and Tobago in 1964; Dominica and the Dominican Republic in 1979; Saint Lucia, Haiti and Dominica in 1980; Antigua and Barbuda, St. Kitts and Nevis, and Montserrat in 1989 and Belize in 2001. Though the low lying Member States of Guyana and Suriname on the shoulder of South America appear to be out of the earthquake and volcanic zones and are not vulnerable to hurricanes, these countries, nevertheless, suffer from the occasional disastrous floods. In short, the Member States of the Caribbean pay a very heavy toll for their sheer physical beauty in a disproportionate share of natural disasters, which impact negatively on their fragile economies in terms of destruction of essential infrastructure and escalating insurance and reinsurance premiums, thereby constituting a disincentive to capital investment.

The Caribbean Disaster Emergency Response Agency (CDERA) was established in 1991 following the termination of the Pan Caribbean Disaster Preparedness and Prevention Project (PCDPPP). Membership of the organisation is open to Member States of the Caribbean Community and any other Caribbean State. At present, CDERA has 16 participating States. The objects of this organisation are to make an immediate and coordinated response in an affected participating State by means of emergency disaster relief; to secure, coordinate and channel to interested organisations reliable and comprehensive information on disasters affecting participating States; to mobilise and coordinate disaster relief from governmental and non-governmental organisations for affected participating States; to mitigate or eliminate the immediate consequences of disasters in participating States and to promote the establishment, enhancement and maintenance on a sustainable basis of adequate emergency disaster response capabilities among participating States.

The organs of the Agency consists of the Council, the Board of Directors and the Coordinating Unit. The Council which consists of the Heads of Government of participating States determines the policy of the Agency and the organisations with

which the Agency may establish functional relationships. The Council also appoints the Disaster Emergency Response Coordinator on the recommendation of the Board of Directors, designates such national disaster relief organisations as it may deem expedient as sub-regional Disaster Emergency Response Operational Units and approves the budget of the Agency and contributions of participating States. The Board of Directors consists of the heads of national disaster relief organisations of participating States and is largely concerned with the mobilisation and deployment of resources and establishing procedures for the efficient management thereof. The Coordinating Unit is headed by the Coordinator and functions as the administrative headquarters of the Agency.

The constituent instrument of CDERA requires each participating State to establish a National Disaster Organisation having overall responsibility for the national disaster relief programme. The National Disaster Organisation also serves as the focal point for CDERA's activities with participating States. Each participating State also has a National Disaster Coordinator responsible for the day to day management of the disaster relief management programme. The Agency has juridical personality and enjoys in participating States the privileges, immunities and exemptions required for its efficient functioning and the achievement of its objectives.

AGREEMENT ESTABLISHING THE CARIBBEAN DISASTER EMERGENCY RESPONSE AGENCY

The States parties:

Conscious that the fragile economies and ecosystems of Caribbean States are extremely vulnerable to natural and man-made disasters;

Recalling that during recent decades many Caribbean States have been adversely affected by a succession of hurricanes, namely Barbados (1955); Cuba, Trinidad and Tobago, Jamaica and Haiti (1964); Dominica and the Dominican Republic (1979); Saint Lucia, Haiti and Jamaica (1980) and Antigua and Barbuda, St. Kitts and Nevis and Montserrat (1989);

Recalling further the volcanic eruptions in Martinique and St. Vincent and the Grenadines (1902); Guadeloupe (1976); St. Vincent and the Grenadines (1979) as well as the earthquakes in Jamaica (1902); Puerto Rico (1918); the Dominican Republic (1946) and Antigua and Barbuda (1974);

Mindful that, from time to time, several States of the Caribbean are subject to disastrous floods and landslides;

Aware of the need to complement the initiatives of the Pan Caribbean Disaster Preparedness and Prevention Project by establishing a mechanism among Caribbean States in order to facilitate immediate and coordinated assistance to States participating therein in the event of a disaster;

Have agreed as follows*:*

Article 1
Definitions

In this Agreement, unless the context otherwise requires:

(a) "Caribbean" means the territories of Member Countries of the Pan Caribbean Disaster Preparedness and Preservation Project;

(b) "CARICOM" means the Caribbean Community;

(c) "Coordinator" means the Disaster Emergency Coordinator appointed pursuant to Article 7;

(d) "disaster" means a sudden event attributable directly and solely either to the operation of the forces of nature or to human intervention or to both of them and characterised by widespread destruction of lives or property accompanied by extensive dislocation of public services, but excluding events occasioned by war, military confrontation or mismanagement;

(e) "national relief organisation" means the governmental agency charged with responsibility for disaster relief management;

(f) "Participating State" means a State party to this Agreement and "affected Participating State" means such a State in the territory of which a disaster has occurred;

(g) "State" includes a dependent political entity of the Caribbean.

Article 2
Establishment of the Agency

The Caribbean Disaster Emergency Response Agency (hereinafter referred to as "the Agency") is hereby established with the membership, structure, powers and functions herein set forth.

Article 3
Membership

Membership of the Agency shall be open to -

(a) the States listed in the Annex to this Agreement; and

(b) other States admitted to membership thereof in accordance with Article 32.

Article 4
Objectives

The Agency shall have the following objectives:

(a) to make an immediate and coordinated response by means of emergency disaster relief to an affected Participating State;

(b) to secure, coordinate and channel to interested inter-governmental and non-governmental organisations reliable and comprehensive information on disasters affecting a Participating State;

(c) to mobilise and coordinate disaster relief from governmental and non-governmental organisations for affected Participating States;

(d) to mitigate or eliminate, as far as practicable, the immediate consequences of disasters in Participating States;

(e) to promote the establishment, enhancement and maintenance on a sustainable basis adequate emergency disaster response capabilities among the Members of the Agency.

Article 5
Organs of the Agency

The Agency shall have the following organs with the powers and functions specified in this Agreement:

(a) The Council;

(b) The Board of Directors; and

(c) The Coordinating Unit.

Article 6
The Council

1. The Council shall consist of the Heads of Government of the Participating States.

2. Every member of the Council shall be entitled to nominate any other person to represent that member at meetings of the Council.

3. The Council shall meet in ordinary session at least once in every calendar year and shall convene in extraordinary sessions at the request of three-quarters of the membership of the Agency.

4. Subject to the provisions of paragraph 3 of this Article, the Council shall regulate its own procedure.

Article 7
Functions of the Council

The Council shall:

(a) determine the policy of the Agency;

(b) determine the organisations with which the Agency may establish functional relationships;

(c) appoint the Disaster Emergence Response Coordinator on the recommendation of the Board of Directors;

(d) designate such national disaster relief organisations as it may deem expedient as Sub-Regional Disaster Emergency Response Operational Units with prior consent of the Government of the Participating State concerned;

(e) approve the budgets of the Agency and the contributions of Participating States thereto;

(f) perform such other functions as it may deem necessary or expedient to achieve the objectives of this Agreement.

Article 8
The Board of Directors

1. The Board of Directors shall consist of the heads of national disaster relief organisations of Participating States, with the Coordinator as its Chairman.

2. The Chairman shall convene the meetings of the Board of Directors which shall meet at least once in every calendar year. The Chairman shall convene extraordinary meetings of the Board at the request of not less than one-half of its members.

3. Subject to the foregoing provisions, the Board of Directors shall regulate its own procedure.

Article 9
Functions of the Board of Directors

The Board of Directors shall:

(a) establish procedures for mobilising national resources to provide assistance in a timely and efficacious manner;

(b) establish a system for maintaining and sharing inventories of critical resources likely to be needed by Participating States in the event of a disaster;

(c) establish arrangements for rapidly accessing financial resources to cover the cost of mobilisation in the event of disaster in a Participating State;

(d) establish and maintain systems for facilitating the movement of resources originating in or transiting a Participating State having regard to the requirements of immigration and customs authorities;

(e) establish pro forma lists of the likely requirements of Participating States in the event of disaster;

(f) establish standards and procedures for the fair and equitable deployment of resources made available by Participating States in response to a disaster;

(g) determine the standards and procedures for a phased triggering of the disaster response mechanism;

(h) assess the contributions of Participating States to the administrative budget of the Agency and the Emergency Assistance Fund referred to in Article 25 and make recommendations to the Council;

(i) perform such other functions as the Council may determine.

Article 10
The Coordinating Unit

1. The Coordinating Unit shall be the administrative headquarters of the Agency and it shall be located in such place as the Council shall decide.

2. The Coordinator shall be the Chief Administrative Officer of the Agency and shall act in that capacity at all meetings of the Council.

3. The appointment of the Coordinator shall be for a term not exceeding five years and he may be re-appointed.

4. The Coordinator shall make an annual report to the Council on the work of the Agency.

5. The Coordinator shall appoint the staff of Unit. In particular, he shall appoint a Deputy Disaster Emergency Response Coordinator (hereinafter referred to as "the Deputy Coordinator") who shall be appointed from among persons with experience of, and shown capacity in, matters relating to emergency relief operations, social welfare or administration. The Deputy Coordinator shall serve for a period not exceeding two years and he may be re-appointed.

6. The paramount consideration in the recruitment and appointment of staff in the Coordinating Unit and in the determination of their conditions of service shall be the need to ensure the highest standards of competence, efficiency and integrity. Subject to this consideration, due regard shall be paid to the importance of recruiting staff on as wide a geographical basis as possible.

7. In the performance of their duties the Coordinator and his staff shall not seek or receive instructions from the Government of any Participating State or from any source external to the Agency. They shall refrain from any action which may reflect adversely on their positions as international officials responsible only to the Agency.

8. Participating States undertake to respect the international character of the responsibilities of the Coordinator and his staff and not seek to influence them in the discharge of their duties.

9. Subject to the approval of the Board of Directors, the Coordinator shall establish the terms and conditions of service of the staff of the Coordinating Unit.

Article 11
Functions of the Coordinating Unit

In addition to any other functions which may be allocated to it by the Council or the Board of Directors, the Coordinating Unit shall:

(a) develop and maintain a reliable damage assessment system and procedures to facilitate rapid and effective evaluation of national disasters;

(b) develop and maintain a comprehensive and reliable data base of key relevant resources (persons, facilities, equipment supplies) and a system for updating it.

(c) establish, equip and maintain an emergency operations system capable of handling emergency telecommunications and facilitating coordination of emergency responses involving many services, supplies and facilities;

(d) establish and maintain an efficient and reliable system of communications with sub-regional operational focal points in order to facilitate the mobilisation, deployment and coordination of disaster response supplies and services;

(e) establish arrangements with regional airlines and shipping lines in order to ensure access to their facilities on a priority basis in the event of a disaster;

(f) establish arrangements with regional media houses designed to ensure the dissemination of reliable information on national disasters to the public;

(g) establish arrangements with CARICOM Committees of Ambassadors in various metropolitan centres in order to ensure the dissemination to them of reliable information on national disasters in Member States and to enlist their cooperation in mobilising disaster relief resources on a timely and structured basis;

(h) establish and maintain a reliable system of communications with the heads of national relief organisations and ensure that their disaster response capabilities are maintained at agreed levels of operational efficiency;

(i) establish and maintain relations with international relief organisations in order to facilitate accessing of their resources in the event of a disaster;

(j) mobilise and organise technical assistance from interested national and international bodies to assist in the development of disaster response capabilities of Participating States;

(k) provide a clearing house for relevant information and intelligence in all matters relating to disasters including current research being undertaken in all related regional institutions;

(l) on the basis of a distress call or on such other basis as may be agreed and in consultation with, Sub-Regional Disaster Response Operational Units, trigger the mechanism;

(m) provide assistance on request to the heads of national relief organisations in the event of a disaster;

(n) liaise with the disciplined forces of the sending States both in the planning and response stage of any operation mounted after the activation of the triggering mechanism;

(o) review periodically disaster response capabilities of Participating States and ensure that resources identified for the purpose are immediately available in the event of disasters in Participating States;

(p) prepare the administrative and emergency budgets of the Agency for submission to the Board of Directors.

Article 12
Sub-Regional Disaster Emergency
Response Operational Units

1. Where, pursuant to paragraph (d) of Article 7, the Council has designated Sub-Regional Disaster Emergency Response Operational Units, such bodies shall:

(a) acquire and maintain on an updated basis comprehensive information on the facilities and services available in each of the Participating States for which they bear responsibility;

(b) maintain and test on a regular basis communications with the Coordinating Unit and with critical response agencies under the control of national relief organisations;

(c) maintain independent fuel and power supplies and ensure that relevant physical facilities are in a condition to withstand a major disaster;

(d) keep and maintain at the operational focal point in serviceable and optimal working condition an equipment package containing essential items determined by the Board of Directors, subject to the approval of the Council.

2. In making a designation referred to in paragraph 1 of this Article, the Council shall identify the States for which the Sub-Regional Disaster Response Operational Unit concerned shall have responsibility.

Article 13
Undertaking of Participating States

Without prejudice to the requirement to discharge any other obligations assumed under or in connection with this Agreement, Participating States undertake:

(a) to establish or maintain, as the case may be, national relief organisations capable of responding swiftly, effectively and in a coordinated manner to disasters in Participating States;

(b) to establish emergency disaster planning groups and define national policies and priorities in the event of disasters;

(c) provide national relief organisations with adequate support including named emergency coordinators, liaison officers with key Ministries, emergency services, utilities and the like;

(d) to task the named agencies (including the emergency services, Health and Public Works) and their coordinators with specific functions and responsibilities to ensure the development of an adequate response capability to support national disaster action;

(e) to define the role and functions of key agencies such as the Security Services, Health and Public Works in disaster emergency response management and establish a system for regular review of their procedures for coordinated response;

(f) establish and equip a suitable emergency operations centre capable of handling emergency telecommunications and coordinating emergency responses involving many services;

(g) develop and maintain an emergency telecommunications system based on the most appropriate technology to ensure the coordination of emergency operations involving the emergency services mentioned above as well as voluntary private sector services;

(h) establish and strengthen procedures for coping with major disaster threats and scenarios and review systems for testing the procedures by drills and simulations;

(i) to review and rationalise legal arrangements for disaster mitigation and emergency action;

(j) to review and catalogue past disaster events and list credible future emergency event scenarios and identify and map areas with special problems like flood prone and landslide prone are areas;

(k) to establish data bases of key resources, both human and material, and a system for keeping them current and to computerise and integrate them into an automated emergency information system;

(l) to develop, in collaboration with competent governmental agencies, an emergency shelter policy and programme involving the full participation of local officials in community-based organisations;

(m) to develop and review a system for community participation, local mobilisation and counter disaster action in the event of isolation;

(n) to develop strategies for loss reduction in the public and private sectors focussing on vital economic activities and life-line activities like water supply;

(o) to develop a system and procedures for damage assessment in order to facilitate rapid and effective post impact evaluation;

(p) to develop and implement a comprehensive disaster public awareness, information and education programme involving media houses, schools, voluntary agencies, and other institutions in order to ensure public participation and community involvement in the disaster management system;

(q) develop and implement appropriate training programmes for persons involved in the disaster management system;

(r) identify and seek participation in bilateral and multilateral technical cooperation programmes designed to develop disaster management capabilities;

(s) to identify, maintain in a state of readiness and make available immediately on request by the Coordinator relevant material and human resources in the event of disaster.

Article 14
Relations with Governmental and Non-Governmental Institutions

1. The Agency may conclude agreements with Governmental, Inter-Governmental and non-Governmental organisations or agencies in order to achieve the objectives of the Agency.

2. Unless the Council decides otherwise, the Coordinator may negotiate and conclude such Agreements on behalf of the Agency.

Article 15
Disciplined Forces

1. Where, in response to a request for assistance by any Participating State, members of the disciplined forces are despatched to any part of the territory of the requesting State, the Coordinator shall, subject to the express prior agreement of the competent authorities of the requesting State, designate a Special Coordinator from among the senior officers of such forces, acting after consultation with the Chiefs of Staff or Commanding Officers of the disciplined forces concerned.

2. The Special Coordinator shall be charged with responsibility for coordinating the disaster relief efforts of the disciplined forces despatched to the Participating State concerned bor the purpose.

3. No member of the disciplined forces shall be despatched to the territory of an affected Participating State without the express prior consent of that State.

4. In the absence of a contrary agreement between the requesting State and the sending State to that effect, members of the disciplined forces of the sending State shall be under the control and disciplinary authority of their commending officer.

Article 16
Direction and Control of Assistance

1. Subject to paragraph 2 of this Article, the overall direction, control, coordination and supervision of assistance despatched to a requesting State shall be the responsibility within its territory of the requesting State.

2. Where the assistance from a sending State involves personnel other than disciplined forces, the sending State shall designate in consultation with the requesting State the person who should be in charge of, retain immediate operational supervision over the personnel, equipment and supplies provided by it. The person so designated shall exercise such supervision in cooperation with the competent authorities of the requesting State.

3. The requesting State shall provide to the extent of its capabilities local facilities and services for proper and efficient administration of communications assistance. In particular, the requesting State shall ensure that any ground situations brought into its territory for the purpose of rendering assistance shall be duly licensed to transmit and receive information in accordance with its domestic laws and regulations.

4. In the absence of a contrary agreement, ownership or equipment and materials despatched to the requesting State by a sending State during periods of assistance shall be unaffected and their prompt return shall be ensured.

5. The requesting State shall ensure the protection of personnel, equipment and materials brought into its territory for the purpose of rendering assistance in the event of a disaster.

Article 17
Competent Authorities and Contact Points

1. In the absence of a contrary indication from Participating States the competent authority and contact point to make requests for and accept offers of assistance in the event of a disaster shall be the head of the national relief organisation.

2. Contact points and a focal point within the Coordinating Unit shall be made available continuously.

3. The Coordinating Unit shall regularly and expeditiously provide Participating States and relevant international organisations with the information referred to in paragraphs 1 and 1 of this Article.

Article 18
Confidentiality and Public Statements

1. Participating States shall respect the confidentiality of any confidential information becoming available to them in connection with assistance requested in the event of a disaster. Such information shall be used exclusively for the purpose of the assistance agreed upon.

2. The sending State shall use its best endeavours to coordinate with the requesting State before releasing information to the public on the assistance provided in connection with a disaster.

Article 19
Costs of Providing Assistance

Except as may otherwise be agreed between them, the expenses incurred by a sending State in providing assistance to a requesting State shall be defrayed by the sending State.

Article 20
Termination of Assistance

1. The Coordinator shall, subject to paragraph 2 of this Article, in consultation with the requesting State, determine the period of response to a disaster.

2. The requesting or sending State may, at any time, after appropriate consultation and by notification in writing request the termination of assistance provided or received under this Agreement.

3. Upon a request being made in that behalf, the parties concerned shall consult with each other to make arrangements for the termination of the assistance.

Article 21
Privileges, Immunities and Facilities
to be Accorded a Sending State and Its Personnel

1. The requesting State shall accord to personnel of the sending State and personnel acting on its behalf the necessary privileges, immunities and facilities for the performance of their functions rendering assistance.

2. Subject to prior notification by the sending State and acceptance by the requesting State of the personnel of the sending State or personnel acting on its behalf, the requesting State shall:

(a) grant to such personnel immunity from arrest, detention and legal process including criminal, civil and administrative jurisdiction of the requesting State, in respect of acts or omissions in the performance of their functions in rendering assistance;

(b) grant to such personnel exemption from taxes, duties or other charges, in respect of the performance of their functions in rendering assistance, as is accorded to diplomatic personnel in accordance with international law;

(c) facilitate the entry into, stay in and departure from its territory of personnel so notified and accepted.

3. The requesting State shall:

(a) accord the sending State exemption from taxes, duties or other charges on equipment and property brought into the territory of the requesting State by the sending State for the purpose of rendering assistance;

(b) confer immunity from seizure, attachment or requisition of such equipment and property and ensure their return to the sending State;

4. Nothing in this Article shall require the requesting State to accord its nationals or permanent residents the privileges and immunities provided for in paragraph 2(b) of this Article.

5. All persons enjoying privileges and immunities under this Article have a duty to respect the law and regulations of the requesting State and shall not interfere in the domestic affairs of the requesting state.

Article 22
Transit of Personnel, Equipment and Property

Participating States shall, at the request of the requesting State or the sending State, take all measures necessary to facilitate the transit through their territory of duly notified personnel, equipment and property involved in rendering assistance to and from the requesting State.

Article 23
Claims and Compensation

1. Participating States shall cooperate in order to facilitate the settlement of legal proceedings and claims under this Article.

2. In the absence of a contrary agreement, the requesting State shall, in respect of death or injury to persons, damage to or loss of property, or damage to the environment caused within its territory or under its control or jurisdiction in the course of providing the assistance required:

(a) shall not bring any legal proceedings against the sending State or persons or other legal entities acting on its behalf;

(b) assume responsibility for dealing with legal proceedings and claims brought by third parties against the sending State or against persons or other legal entities acting on its behalf except in cases of wilful misconduct or gross negligence;

(c) hold the sending State or persons or other legal entities acting on its behalf harmless in respect of legal proceedings referred to in sub-paragraph (b) hereof;

(d) compensate the sending State or persons or other legal entities acting on its behalf for death or injury to personnel of the sending State or persons or other legal entities acting on its behalf and for loss of or damage to non-consumable equipment or materials related to the assistance except in cases of wilful misconduct or gross negligence by individuals causing the death, injury or loss or damage.

3. Nothing in this Article shall be construed to prevent compensation or indemnity available under any applicable international agreement or national law of a Participating State nor to require the requesting State to apply paragraph 2 of this Article, in whole or in part, to its nationals or permanent residents

Article 24
The Administrative Budget

1. The Agency shall establish an administrative budget, the funds of which shall be used to defray the ordinary expenses incurred in administering its affairs.

2. Participating States shall contribute to the administrative budget in accordance with a scale of assessment to be determined by the Board of Directors and approved by the Council.

3. He administrative budget shall be established on a biennial basis and the Coordinator shall cause the accounts of the Agency to be audited annually by external auditors approved by the Board of Directors.

4. The report of the auditors shall be presented by the Coordinator to the Board of Directors as soon as practicable for the consideration and approval of the Board.

5. The Coordinator, with the approval of the Board of Directors, shall establish financial regulations for the Agency.

Article 25
Emergency Assistance Fund

1. The Agency shall establish an Emergency Assistance Fund (hereinafter in this Article referred to as "the Fund") which shall be used solely to defray expenses incurred in connection with the rendering of assistance in the event of a disaster occurring in a Participating State.

2. Participating States shall contribute to the Fund in accordance with a scale of assessment to be determined by the Board of Directors and approved by the Council.

3. The Coordinator may accept contributions to the Fund from sources external to the Agency on such conditions as may be prescribed by them and agreed by the Board

of Directors but without discrimination as to the Participating States to receive such assistance.

4. The Coordinator shall cause the accounts of the Fund to be audited annually by the auditors referred to in paragraph 3 of Article 24.

5. Paragraph 4 of Article 24 shall apply for the purposes of the Fund.

Article 26
Privileges and Immunities of the Agency

1. The Agency shall have international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its objectives.

2. The Agency, its property and assets shall enjoy in the territories of the Participating States immunity from legal process except to the extent that the Agency waives this immunity expressly in any particular case.

3. The property and assets of the Agency in Participating States wherever located and by whomsoever held shall be immune from search, requisition, confiscation, appropriation or any other form of seizure by executive or legislative action.

4. The property and assets of the Agency shall be exempt from restrictions, regulations, controls and moratoria of any kind.

5. The archives of the Agency, wherever located, shall be inviolable. Proprietary data, confidential information and personnel records shall not be placed in archives open to public inspection.

6. In respect of its official communications the Agency shall be accorded by each Participating State treatment no less favourable than that accorded by that State to other international organisations.

Article 27
Representatives and Staff of the Agency

Representatives of Participating States attending meetings of the Council of the Board of Directors and the Coordinator and other staff of the Unit shall enjoy in the territory of each Participating State:

(a) immunity from legal process with respect to acts performed by them in the exercise of their functions, except to the extent that the State which they represent or the Agency as appropriate expressly waives this immunity in any particular case;

(b) where they are not national of that Participating State, the same exemptions from immigration restrictions, alien registration requirements and national service obligations, the same facilities as regards exchange restrictions and the same treatment in respect of travelling facilities as are accorded by that Participating State to the representatives, officials and employees of comparable rank of other Participating States.

Article 28
Exemptions from Taxes and Customs Duties

1. The Agency, its assets and property, its income, and its operations and transactions within the contemplation of this Agreement, shall be exempt from all direct taxation and goods imported or exported for its official use shall be exempt from all customs duties. The Agency shall not claim exemption from taxes which are no more than charges for services rendered.

2. Where purchases of goods or services of substantial value necessary for the official activities of the Agency are made by or behalf of the Agency, and where the price of such goods or services includes taxes or duties, appropriate measures shall, to the extent practicable, be taken by Participating States to grant exemptions from such taxes or duties or provide for their reimbursement.

3. Goods imported or purchased under an exemption provided for in this Article shall not be sold or otherwise disposed of in the territory of the Participating State granting the exemptions, except under conditions agreed with that Participating Member State.

4. No tax shall be levied by Participating States or in respect fo salaries and other emoluments paid or any other form of payment made by the Agency to the Coordinator and staff of the Agency as well as experts performing missions for the Agency, not being their nationals.

Article 29
Suspension of Rights and Privileges of Membership

1. A Participating State which is in arrears in the payment of its financial contribution to the administrative budget of the Agency shall have no vote in the Council or the Board of Directors if the amount of the arrears equals or exceeds the amount of the contributions due from it for the preceding two financial years.

2. A Participating State which has grossly and persistently violated the obligations assumed under this Agreement may be suspended from the exercise of the rights and privileges of membership by the Council.

3. A determination within the meaning of paragraph 2 of this Article shall be made by the Council.

Article 30
Settlement of Disputes

In the absence of a contrary agreement between the parties concerned, all disputes arising from or in connection with the interpretation or application of this Agreement shall be settled by the Council.

Article 31
Signature and Ratification

The Agreement shall be open for signature by the States listed in the Annex to this Agreement and shall be subject to ratification in accordance with their respective constitutional procedures.

Article 32
Entry into Force

1. This Agreement shall enter into force when Instruments of Ratification have been deposited by at least seven of the States listed in the Annex to this Agreement including Barbados, Jamaica and Trinidad and Tobago.

2. Any other Caribbean State not listed in the Annex to this Agreement may apply to become a member of the Agency. Applications for membership shall be submitted to the Coordinating Unit. Admission to membership of the Agency shall be determined by the Council on the recommendation of the Board of Directors.

3. A State admitted to membership in accordance with paragraph 2 of this Article shall deposit an appropriate Instrument of Accession with the CARICOM Secretariat before becoming entitled to enjoy the privileges of membership of the Agency.

Article 33
Depositary

1. The original of this Agreement and any amendments thereto shall be deposited with the CARICOM Secretariat.

2. The Secretary-General of CARICOM shall notify the Coordinating Unit of the Agency of the deposit of Instruments of Ratification or Accession, as the case may be.

Article 34
Amendments

1. Any Participating State may propose amendments to this Agreement.

2. Any proposal for an amendment to this Agreement shall be submitted to the Coordinating Unit which shall transmit it to the Board of Directors with its comments.

3. The Board of Directors shall consider the proposal together with the comments of the Coordinating Unit and make a recommendation to the Council.

4. The Council shall consider the proposal for amendment and may adopt it with such modifications as it deems necessary.

5. Amendments shall enter into force when ratified by all Participating States.

Article 35
Withdrawal

1. Any Participating State may denounce this Agreement and withdraw from the Agency.

2. Any Participating State wishing to withdraw from the Agency shall give to the Coordinating Unit twelve months' notice of its intention to do so and the Coordinator shall immediately notify the other Participating States.

3. The notice mentioned in paragraph 2 of this Article may be withdrawn at any time prior to the date on which withdrawal is to take effect.

4. A Participating State withdrawing from the Agency shall honour any financial obligations duty assumed by it during the period of its membership.

Article 36
Provisional Application

1. Seven or more of the Participating States listed in the Annex to this Agreement including Barbados, Jamaica and Trinidad and Tobago, may, upon signature, or at any later date before this Agreement enters into force, declare their intention to apply it provisionally.

2. Upon any such declaration, the Secretary-General of CARICOM shall convene an inaugural meeting of the Council.

ANNEX

Antigua and Barbuda
The Bahamas
Barbados
Belize
British Virgin Islands
Dominica
Grenada
Guyana
Jamaica
Montserrat
St. Kitts and Nevis
Saint Lucia
St. Vincent and the Grenadines
Trinidad and Tobago

33

THE CARIBBEAN TOURISM ORGANISATION

The emergence of the twin phenomena of liberalisation and globalisation was coincident with the contraction in opportunities for Member States of the Community to engage in the production of goods on an internationally competitive basis especially in the area of agriculture where metropolitan countries maintain heavy subsidies and are adamant in their refusal to abandon or moderate the subsidies. Consequently, contracting income from traditional agricultural exports from the Caribbean such as bananas, sugar and rice has forced CARICOM Member States to diversify into service areas where geography, lifestyle and culture guarantee them a distinct competitive advantage. In this connection significant improvements have been registered in the areas of financial services and tourism. The relative and absolute proximity to the lucrative North American and European markets and an enthralling environment of surf, sand and sea converge to make the Caribbean the preferred destination for many tourists.

Membership of the Caribbean Tourism Organisation is open to countries formerly enjoying membership of the Caribbean Tourism Research and Development Centre and/or the Tourism Association which accede to the CTO Agreement of 1989; any other country accepted as being part of the Caribbean, which in the opinion of the Government members of the Board of Directors, are willing and able to exercise the rights and assume the obligations of membership; and organisations serving the Caribbean in the area of tourism which, in the opinion of the Board of Directors will make a positive contribution to the development of Caribbean tourism and are willing and able to exercise the rights and assume the obligations of membership. The primary objective of the CTO is to provide to, and through, its members, the services and information necessary for the development of sustainable tourism for the social and economic benefit of the Caribbean.

Provision is made in the CTO's constituent instrument for a Caucus of Tourism Ministers of CTO Member States comprising Ministers of Tourism, Commissioners of Tourism, Secretaries of State for Tourism and other persons of equivalent rank. However, the Agreement is silent on the powers and functions of this body. The Board of Directors is comprised of one representative each from Member States of CTO appointed by the Government concerned; three representatives of the Caribbean Hotel Association; six elected representatives from air transport ministers; three representatives from cruise ship interests; five representatives from the Allied Membership; five representatives from Chapter Presidents and honorary members of the Board of Directors. The Board is the highest body of the Organisation comprising public and private sector representatives and is responsible for CTO's policy and overall direction of the activities

and programme of the Organisation. The Board has an Executive Committee comprising officers of the Board elected from among the Government members. This Executive Committee functions as the management committee of the Board taking decisions on all aspects of CTO's activities between meetings of the Board of Directors. The chief executive officer of the Organisation is the Secretary-general who is supported by other professional and support staff.

Subject to the general direction of the Board of Directors, the Secretary-General has overall responsibilities for, *inter alia*, implementation of the Organisation's policies and administration and coordination of the activities and programmes of the Organisation. Other responsibilities include the establishment and organisation of special programmes and projects in furtherance of the objectives of the Organisation, preparation and submission of the administrative budget to the Executive Committee for consideration and transmission to the Board of Directors for examination and approval. The Organisation possesses full juridical personality and legal status in the jurisdictions of Member States with capacity to contract; acquire and dispose of moveable and immoveable property, to institute legal proceedings, borrow funds, mortgage and charge its property. The CTO may cooperate with international organisations active in similar fields and establish appropriate contacts to this end.

AGREEMENT ESTABLISHING THE CARIBBEAN TOURISM ORGANISATION

WHEREAS THE CONTRACTING PARTIES, the Caribbean Tourism Association (CTA) and the Caribbean Tourism Research and Development Centre (CTRC),

Desire for the benefit of the countries and peoples of the Caribbean to co-operate in the promotion and development of tourism in the Region;

And recognise the need for the establishment of one authoritative Caribbean Tourism Organisation for marketing, research, product development, education and training, information and improvement of tourism in all its aspects.

The contracting organisations hereby agree as follows:

In this Agreement:

"Country" means Sovereign States, Departments, Colonial Territories and other national political entities;

"Caribbean" means the Caribbean Region and includes any country located within or bordering upon the Caribbean Sea and shall include any country located in the general area near the Caribbean Sea. For all purposes connected with this Agreement the Board of Directors may determine whether any country is deemed to be located in the Caribbean.

Article 1
Establishment

The Caribbean Tourism Organisation (hereinafter referred to as "CTO") is hereby established having the membership, powers and functions hereinafter specified.

Article 2
Membership - (a)

1. Membership of the CTO shall be open to -

   (i) those Countries formerly enjoying membership in the Caribbean Tourism Research and Development Centre and/or the Caribbean Tourism Association (as listed at Annex I) which acceded to the 1989 CTO Agreement;

   (ii) any other Country being of or accepted as being part of the Caribbean that in the opinion of the Government Ministers of the Board of Directors is able and willing to exercise the rights and assume the obligations of membership;

   (iii) organisations serving the Caribbean region in the area of tourism which in the opinion of the Board of Directors will contribute to positive development of Caribbean tourism and are able and willing to exercise the rights and assume the obligations of membership. This includes Carrier Members, Allied Members, Chapter Members, Retail Travel Agency Members, Affiliate Members, as defined at 2(b).

Classifications of Membership - (b)

The classifications and definition of members of the CTO are as follows:

(i) GOVERNMENT MEMBERS shall be the Countries listed in Annex I to this Agreement, the Governments of which sign the Agreement in accordance with Articles 18 and 19, and Countries admitted as new members by the Board of Directors;

(ii) CARRIER MEMBERS shall be international and regional air carriers, and international and regional passenger sea carriers serving the Caribbean area, admitted to membership of CTO by the Board of Directors;

(iii) ALLIED MEMBERS shall be companies, corporations, firms, organisations, agencies or other persons providing goods and services to, or otherwise engaged in, the tourism industry of the Caribbean, admitted to membership of CTO by the Board of Directors;

(iv) CHAPTER MEMBERS shall be the CTO Chapters established by the Board of Directors;

(v) RETAIL TRAVEL AGENCY MEMBERS shall be companies, firms, corporations, organisations or agencies qualified to provide services relating to tours, cruises, transportation, hotel accommodation, meals, transfers, sightseeing and other elements of travel to the public as a service, admitted to membership to CTO by the Board of Directors;

(vi) AFFILIATE MEMBERS shall be such organisations in the tourism industry the objectives and activities of which, in the opinion of the Board of Directors, complement those of CTO and are admitted as such to

membership of CTO by the Board of Directors on such terms and conditions as the Board may determine.

Co-operation - (c)

CTO may establish formal co-operation with non-Members States, national bodies in those States, regional or international Governmental or non-governmental bodies. The establishment, conditions and terms of such co-operation shall be defined in each case according to the circumstances, by majority vote of the Government Members, of the Board of Directors present and voting.

Article 3
Objectives of the Caribbean Tourism Organisation

The primary objective of CTO is to provide to, and through its members, the services and information necessary for the development of sustainable tourism for the economic and social benefit of the Caribbean people by:

(a) providing an instrument for close collaboration in tourism among the various territories, countries and other interests concerned;

(b) developing and promoting regional travel and tourism programmes to and within the Caribbean;

(c) providing members with opportunities to market their products more effectively to both the Caribbean and the international tourism marketplaces;

(d) assisting member countries to maximise their marketing impact including assisting the smaller member countries with minimal promotion budgets to maximise their marketing impact through the collective CTO forum;

(e) carrying out advertising, promotions, publicity and information services calculated to focus the attention of the public upon the Caribbean as one of the world's outstanding tourist destination;

(f) providing a liaison for tourism matters between member countries;

(g) providing a sound body of knowledge on tourism through data collection, collation and research;

(h) creating processes and systems for disseminating and sharing tourism information;

(i) providing advice, technical assistance and consultancy services with respect to tourism;

(j) seeking to maximise the contribution of tourism to the economic development of member countries and the Caribbean by programmes likely to increase foreign exchange earnings, increase employment, strengthen linkages between tourism and other economic sectors, and to reduce leakages from Caribbean economies;

(k) encouraging co-ordination with respect to research and planning and the efficient allocation of local, regional and international resources at both government and non-governmental levels in tourism development;

(l) researching and identifying the positive and negative social, economic and ecological effects of tourism with a view to recommending and/or initiating action aimed at minimising the negative and enhancing its positive effects;

(m) seeking to preserve and to promote through tourism, indigenous cultural expression with special reference to visual arts, handicraft, drama, dance, music and creative writing;

(n) promoting the consciousness of the need to preserve both the natural and man-made beauty of the Caribbean environment and to demonstrate its direct relationship to the development of an attractive tourism product;

(o) developing a tourism product which is essentially Caribbean and which though maximising economic benefits, has minimal adverse social and psychological effects on the integrity of Caribbean peoples;

(p) encouraging the recognition of tourism as a mode of education in Caribbean life and encouraging the study of tourism in its fullest aspect within the Caribbean curricula;

(q) providing forums where hotel and other tourism interests in the Caribbean may meet with Caribbean governments for the discussion of tourism in the Caribbean;

(r) helping members and tourist interests in the Caribbean to develop tourism policies which are consistent with the development of tourism in the Caribbean;

(s) providing advice to member governments on legislation and policy formation which may affect the development of the tourism industry within the Caribbean;

(t) negotiating with Governments, Regional and International Agencies, either directly or indirectly, or through the appropriate agencies or bodies, and with such groups as may be considered necessary, on behalf of members of the Organisation as may be required from time to time, to increase the human and financial resources of CTO and in the interest of the peoples of the Caribbean;

(u) seeking to ensure that Caribbean tourism is fully used for the development of the Caribbean peoples.

Article 4
xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

CTO shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subidiary organs.

Article 5
Caucus of Tourism Ministers

1. There shall be a Caucus of Tourism Ministers of CTO member countries comprising Ministers of Tourism, Commissioners of Tourism, Secretaries of State for

Tourism or others of equivalent rank, depending on the nomenclature utilised by the member governments of CTO.

2. The caucus shall meet at such times as it shall decide.

Article 6
Board of Directors: Membership and Meetings

1. There shall be a Board of directors which shall comprise:
   (a) One representative from each of the Member Governments of CTO appointed by its Government. Governments may appoint as alternate as necessary;
   (b) three representatives from the Caribbean Hotel Association appointed by that body;
   (c) six representatives from air transport interests elected by airlines from among the airlines membership, and of these six, at least two shall be representatives of Caribbean owned airlines, one a representative of a European airline and one a representative of a Canadian airline;
   (d) three representatives from among the cruise ship interests service the Caribbean elected from the cruise ship membership;
   (e) five representatives drawn from and elected by the Allied Membership;
   (f) five representatives drawn from Chapter Presidents elected by the Chapter Presidents and of these five, at least one shall be the President of a European Chapter and one the president of a Canadian chapter;
   (g) HONORARY MEMBERS of the Board of Directors shall be persons to whom the Board of Directors extends non-voting membership as a token of appreciation for outstanding service rendered to CTO in either public or private life.

2. The names of the representatives on the Board of Directors as at (a) and (b) shall be notified in writing by the CTO Member Governments and the Caribbean Hotel Association, to the Secretary-General of CTO prior to the commencement of the term of a new Board of Directors.

3. Representatives listed at (c) to (f) inclusive shall be elected to the Board of Directors of CTO for two years.

4. Meetings of the Board of Directors shall comprise a simple majority of the Government Members.

Article 7
Functions and Powers of the Board of Directors

1. The Board of Directors of CTO shall be the highest Body of the Organisation comprising public and private sector representatives and shall be responsible for policy and overall direction of the activities and programmes of the organisation. The powers and functions of the Board of Directors shall be to:

(a) consider the tourism programmes and activities of CTO and take such action as is necessary;

(b) receive, consider, and approve reports relating to the matters outlined at (a);

(c) receive and approve the annual budget and audited financial statements of CTO;

(d) determine in what proportion the members of the Organisation shall bear the expenses of the Organisation;

(e) receive and approve the work programme of CTO;

(f) appoint, discipline or remove the Secretary-general as set out in By-Law III, paragraph 2 of the CTO By-Laws;

(g) establish such standing technical committees as are deemed necessary, comprising CTO Directors of Tourism and other technical persons considered necessary for the conduct of the work of CTO. The Chairman of the technical committees shall attend the meetings of the Board of Directors by invitation;

(h) co-opt any person to assist in the work of the Board of Directors as it sees fit from time to time;

(i) do all other such acts as may be necessary for fulfilling the objectives of CTO;

(j) establish a standing constitutional committee comprising Directors of the Board.

2. Except for amendments to the constitution, decisions of the Board of Directors and committees shall be by simple majority of members present and voting.

3. Each Government Member shall have two votes and each non-government member one vote.

Article 8
Officers of the Board of Directors

1. The Officers of the Board of Directors shall comprise:

(a) the Chairman, First Vice-Chairman, Second Vice-Chairman, Third Vice-Chairman and Fourth Vice-Chairman, shall be elected at the Annual General Meeting of CTO by secret ballot;

(b) such other persons as the Board from time to time deems appropriate, who shall be selected from the Board members representing classifications of membership other than governments. The number and categories serving at any given time shall be set out in By-Law III;

2. The officers of the Board shall serve as the Executive Committee of the Board of Directors.

3. With respect to elections of officers -

(a) the Chairman, First Vice-Chairman, Second Vice-Chairman, Third Vice-Chairman and Fourth Vice-Chairman, shall be elected at the Annual General Meeting of CTO by secret ballot;

(b) each of the private sector officers of the Board of Directors shall be selected respectively by the persons comprising be classification of membership from which the officer is to be selected;

(c) each Government Member shall have two votes and each non-government member one vote;

(d) if, on the first ballot, no candidate obtains an absolute majority, a second ballot shall be taken between the two candidates who obtained the most votes. In the event of a tie, the result shall be determined by lot.

4. The Chairman of the Board of Directors shall serve for a period of two years, but shall not succeed himself in the same post. He is however eligible for re-election after a period of two years following the end of his term of office.

5. In case the office of Chairman becomes vacant for any cause whatever before the Annual General Meeting at which anew Chairman is to be elected, the most senior Vice-Chairman of the Board shall serve the unexpired term as Chairman.

6. In the absence of the Chairman from any meeting, the most senior Vice-Chairman present shall act as chairman.

7. Only members whose dues have been paid in full up to and including the year preceding that in which elections are taking place, are eligible to vote in elections or to stand for elections.

8. If a member of the Board of Directors or any officer of the Board of Directors, other than the Chairman, vacates office before the expiration of his term of office, the vacancy shall be filled by a new Director or Officer appointed by the government or organisation in which the vacancy arose and he shall hold office for the remainder of the term of office of his predecessor.

Article 9
Functions and Powers of the Executive Sub-Committee

1. The Executive Sub-Committee, of the Board of Directors, shall be the management committee of the Board of Directors taking decisions on all aspects of CTO's work in between meetings of the Board.

2. The Chairman of the Board of Directors shall serve as Chairman of the Executive Sub-Committee. In his absence the most senior Vice-Chairman of the Board of Directors present will act as Chairman of the Executive Sub-Committee.

3. The Executive Sub-Committee shall meet at such time and place as its Chairman through the Secretary-General shall direct.

4. Members of the Executive Sub-Committee may appoint alternates to represent them in their absence at meetings.

5. Each Government member of the Executive Sub-Committee shall have two votes and each non-Government member one vote. In the event of a tie the presiding

Chairman at the meeting shall have a casting vote in addition to his original votes. Decisions of the Executive Sub-Committee shall be by a simple majority of members present and voting.

6. A quorum shall comprise a simple majority of the Government members of the Executive Sub-Committee.

7. The Executive Sub-Committee shall be responsible for carrying out any duties of the Board of Directors delegated to it by the Board of Directors. Its agenda shall be decided by the Chairman in consultation with the Secretary-General.

8. It shall co-opt any person to assist in its work as it sees fit from time to time.

9. Subject to the above, the Executive Sub-Committee shall regulate its own procedures.

Article 10
Location of the Organisation

1. The Headquarters and Secretariat of CTO shall be located in Barbados.

2. The Organisation shall conclude a Headquarters Agreement with the Government of Barbados.

3. The Board of Directors may establish such overseas offices of CTO as it deems necessary for carrying out the tourism and other functions of the Organisation.

Article 11
The Secretariat

1. There shall be a Secretariat and a Secretary-general who shall be the Chief Executive Officer of CTO. The Secretary-General shall be supported by other professional and support staff, which shall include a Deputy Secretary-General.

2. All staff members shall be directly responsible to the Secretary-General in the execution of their responsibilities.

3. In the absence or the incapacity of the Secretary-General, the Deputy Secretary-General shall act as Secretary-General. In the absence of both, the Board of Directors shall make such acting appointments and other suitable arrangements as it deems necessary for the carrying out of the staff responsibilities.

Article 12
Duties of the Secretary-General

Subject to the general directions of the Board of Directors the Secretary-General shall take overall responsibility for:

(a) implementation of the general policies of CTO;

(b) overall administration and co-ordination of activities and programmes of CTO;

(c) the control of revenue and expenditure of CTO as approved by the Board of directors;

(d) the creation and organisation of special programmes and projects in furtherance of the objectives of CTO;

(e) ensuring that the correct procedures are followed with respect to all matters within the competence of the Organisation;

(f) the submission of the financial report and budget of CTO to the Executive Sub-Committee for its consideration and transmittal to the Board of Directors for its approval;

(g) such other duties as are delegated to him by the Board of Directors;

(h) the Secretary-General shall appoint, prescribe the duties of, control, discipline and dismiss all staff, except that in the case of the Deputy Secretary-General and the Directors of Division, their appointment and dismissal shall be done in consultation with the Executive Committee.

Article 13
CTO Chapters

1. To assist in the fulfilment of the objectives of CTO, the Board of Directors is empowered to authorise the establishment and to encourage the development of CTO Chapters at any place in the world.

2. The Board of Directors shall set out the basic provisions relating to the organisation, structure, operation and funding of CTO Chapters in the By-Laws. Adaptations or amendments of the By-Laws to meet the needs of particular regions proposed by a CTO Chapter shall be approved by the Board of Directors.

Article 14
By-Laws

The Board of Directors may make such By-Laws as it considers necessary or desirable for furthering the objectives of CTO and generally for the management of the affairs of CTO and these may be amended or revoked by a simple majority of the Board of Directors present and voting. By-Laws established under this Article shall not be inconsistent with this Agreement.

Article 15
Revenue

The source of revenue of CTO shall include the following:

(a) the annual contributions by the Members to be determined by the Board of Directors;

(b) Such other contributions as may be made by governments whether within or outside the Region;

(c) such grants as may be made from any source for the financing of special projects or fellowships;

(d) such fees as may be determined from time to time by the Board of Directors or any of the organs to whit it delegates the authority;

(e) payments made to the CTO or any of its organs in consideration of consultancy services provided;

(f) revenue earned by the CTO from publications or in respect of services rendered or from special fund-raising projects;

(g) grants from any other sources.

Article 16
Legal Status

1. CTO shall possess full juridical personality.

2. CTO shall enjoy in each Member Country such legal status and legal capacity as may be necessary for the fulfilment of its objects and the exercise of its functions.

In particular the CTO shall have the capacity to -

(a) contract;

(b) acquire and dispose of moveable and immoveable property;

(c) institute legal proceedings;

(d) borrow funds;

(e) mortgage or charge its property.

3. CTO may co-operate with international organisations active in similar fields and may seek all appropriate contacts with a view to co-operating with other organisations in similar fields.

4. (a) All property of every kind whatsoever which was vested, immediately before the entry into force of this Agreement, in the Caribbean Tourism Association (CTA) and the Caribbean Tourism Research an Development Centre (CTRC) is hereby transferred to and vested in CTO;

(b) all rights, privileges, advances, liabilities and obligations that immediately before the entry into force of this Agreement were enjoyed or discharged on behalf of CTA and CTRC as corporate bodies are hereby conferred on or assumed by CTO for the purposes of this Agreement.

Article 17
Dispute Settlement

1. If a dispute should arise between the CTO and a member or members represented on the Board, such a dispute shall be submitted to arbitration by a Tribunal of three arbitrators. Each party shall appoint one arbitrator and two arbitrators shall appoint a third who shall be Chairman. If within 30 days of the request for arbitration either party has not appointed an arbitrator, or if within 15 days of the appointment of the second arbitrator the third arbitrator has not been appointed, the tribunal shall be established under the relevant laws relating to arbitration in the country of Barbados.

2. The procedure of the arbitration shall be fixed by the arbitrators. However, the Chairman shall be empowered to decide all questions of procedure in any case of disagreement with respect thereto.

3. The majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding upon the parties.

Article 18
Signature

This Agreement was open for signature from 15th September, 1988 until 30th November, 1988 by the Existing Member States of the Caribbean Tourism Association and the Caribbean Tourism Research and Development Centre.

Article 19
Entry into Force

This Agreement entered into force on two thirds of the signatures of Government Members in accordance with Article 18.

Article 20
Accession and Admission

1. Any country listed in Annex I hereto, which upon the coming into force of this Agreement has not signed this Agreement in accordance with Articles 18 and 19 and wishes to become a member after that date may accede to the Agreement by deposit of appropriate instruments of accession with the Organisation.

2. Any country of the Caribbean not a member of CTO at 31 January 1989 may apply through the Secretary-General to the Board of Directors to become a member of CTO and if the Government Members of the Board of Directors so decide, be admitted to membership in accordance with Article 2 (b) (i) under such terms and conditions as may be determined by the Government Members of the Board of Directors.

3. Any organisation to which paragraph 3 of Article 2 (a) of this Agreement refers may, upon application through the Secretary-General to the Board of Directors for membership of the CTO, be admitted as a member of the CTO under such terms and conditions as may be determined by the Board of Directors.

4. Any Member County of the CTO having either had its membership revoked by the Board of Directors, or on its own accord withdrawn or cancelled its membership, may seek re-entry to membership on the condition that they first pay all outstanding membership dues owed to the CTO.

Article 21
Amendment

1. Any member may make proposals for amending this Agreement. Such proposals shall be submitted to the Board of /directors through the Secretary-General and notice of such amendments shall be given at least six months prior to the next annual general meeting. If any proposal is submitted less than six months prior to the AGM, then it may be considered at the next meeting.

2. Any such proposed amendment shall be approved by a two-thirds majority of the Government Members of the Board of Directors present and voting provided that such two-thirds shall not fall below 50 per cent of the membership. When an amendment

has been adopted, the CTO shall certify it in a formal communication advised to all members. Amendments shall enter into force for all members three (3) months after the date of the formal communication unless the Board of Directors specifies therein a different period.

Article 22
Withdrawal or Cancellation

1. Any Government Member may withdraw from this Agreement by giving 12 months notice in writing to the Secretary-General of CTO who shall forthwith notify member countries.

2. A Government Member so withdrawing undertakes any financial obligations duly assumed during its participation in this Agreement.

3. Membership may be revoked if in the opinion of a two-thirds majority of Government Members of the Board of Directors, who are financial, present, and voting, provided that such two-thirds shall not fall below 60 per cent of the membership, a member has not fulfilled its obligations under the Agreement or has acted prejudicially to the interest of the organisation.

4. Membership is automatically revoked if a Government Member is three years in arrears in the payment of dues.

5. The membership of a non-governmental member who is not current in the payment of dues is automatically revoked.

6. A member who has withdrawn from this Agreement under clause 1 of this Article or who has had his membership revoked under clauses 3, 4 or 5 of this Article, may not be re-admitted to membership in the Organisation until all arrears of dues have been fully paid up and all final obligations have been fully satisfied.

Article 23
First General Assembly

The inaugural meeting shall comprise the Members of the Organisation which are contracting Parties to this Agreement and shall constitute the first General Assembly meeting in special session.

Article 24
Liquidation and Dissolution

In the event of the liquidation, dissolution or winding up of CTO, either voluntarily or by operation of law, the Board of Directors shall have the power to dispose of the total assets of CTO, either voluntarily or by operation of law, the Board of Directors shall have the power to dispose of the total assets of CYO in such a manner as it may be majority vote determine, provided that such distribution shall be calculated exclusively to carry out the objectives and purposes for which the Organisation is formed and shall not result in the distribution of any part of the net earnings of the Organisation for the benefit of any private individual.

CARIBBEAN TOURISM ORGANISATION (CTO)

(AN INTERNATIONAL ORGANISATION WITH JURIDICAL PERSONALITY)

BY-LAWS (AS ESTABLISHED IN JANUARY 1989)

In accordance with Article 14 of the Agreement establishing CTO, the Board of Directors may make such By-Laws as it considers necessary or desirable for furthering the objectives of CTO and generally for the management of the affairs of CTO and these may be amended or revoked by a simple majority of the Board of Directors present and voting. Such By-Laws shall not be inconsistent with the Agreement.

BY-LAW I

MEETINGS OF CTO

1. The Annual General Meeting of the Caribbean Tourism Organisation shall be held at such time and place as may be determined by the Board of Directors. The business of the Annual General Meeting shall include:

   (i) the election and selection of directors and officers in accordance with the provisions of Articles 6 and 8 of the Agreement establishing the Caribbean Tourism Organisation.

2. The Secretary-General shall submit a draft Agenda to all members at least four weeks prior to the meeting. Any member may add items to the Agenda provided they are submitted in writing to the Secretary-General at least fourteen days prior to the meeting. Notice of the time, place and agenda of such meeting shall be given to Members in writing.

3. Special meetings may be called by the Board of Directors when they consider it necessary or expedient to do so. Notice of such meeting shall be in writing, if necessary, so as to reach the members not less than fourteen days prior to the appointed date. Such notices shall specify the agenda for which the meeting is called and the place where such special meeting will be held. Special meetings may also be called upon the written request of any three Government Members and the reasons for requesting such meetings must be stated.

4. (a) The voting rights of members shall be in accordance with Articles 7, 8, and 9 of the Agreement establishing CTO;

   (b) voting shall generally be by show of hands without prejudice to the rights of any Government Member to call for a vote by secret ballot. Voting of the election of officers shall be by secret ballot;

   (c) the Chairman of the Annual General Meeting shall have a casting vote as well as an original vote, except in voting for the election of officers;

(d) in case of voting for persons, a candidate to be elected must obtain, on the first vote, an absolute majority of the votes cast by the members present and voting;

(e) if, on the first, no candidate obtains an absolute majority, a second vote will be taken between the two candidates who obtained the most votes;

(f) in the event of a tie vote from the application of subsection (e), the result shall be determined by lot.

5. The Chairman of the Board of Directors shall preside over the Annual General Meeting. In the absence of the Chairman, the most senior of the Vice Chairmen present shall preside.

BY-LAW II

CAUCUS OF TOURISM MINISTERS

1. The Chairman of the Board of Directors, through the Secretary-General, shall convoke the Caucus of Tourism Ministers.

2. The Chairman of the Board of Directors shall decide the Agenda for the Ministerial Caucus in consultation with the Ministers represented on the Board of Directors.

3. The Caucus of Tourism Ministers shall regulate its own procedures, and shall elect a Chairman at each of its meetings.

BY-LAW III

THE BOARD OF DIRECTORS

1. The composition, officers, powers and functions of the Board of Directors shall be as set out in Articles 6, 7, and 8 of the Agreement establishing the CTO.

2. The Board of Directors shall have full charge and control of the affairs and property of CTO. They shall employ the Secretary-General, prescribe his duties and define his authority, having and reserving the right and power to direct, change and control his activities as in their opinion shall from time to time be necessary or expedient. They shall have the power to dismiss or request the resignation of the Secretary-General as they deem fit. They shall supervise the expenditure of all monies and appoint the time and place for the holding of all meetings.

3. The Deputy Secretary-General and any Directors of Division who are in dispute with CTO or who have been served notice of dismissal shall have the right of appeal to the Executive Sub-Committee of the Board of Directors for a final decision.

4. The Board of Directors shall approve the budget and a dues structure for all classes of members for each ensuing year at the Annual General Meeting.

5. The Board of Directors shall have complete authority to approve or cancel membership in accordance with the Agreement Establishing CTO and By-Laws. They

shall take any and all actions as may seem desirable in the furtherance of the interests of CTO and its members.

6. The private sector members of the Executive Sub-Committee to the Board of Directors comprise :

(i) two carrier members of whom one shall be an airline representative and the other a cruise line representative;

(ii) two affiliate members who shall be CHA representatives;

(iii) one allied member;

(iv) two Chapter Members, of whom one shall be a travel agent from North America and the other shall be from a European Chapter.

The number and categories of these representatives may be changed from time to time as is deemed appropriate, by a simple majority of the Board of Directors present and voting.

7. Members of the Board of Directors and other elected Officers of CTO shall not be entitled to receive compensation from CTO for transportation and lodging expenses incurred in attending Board and other meetings.

BY-LAW IV

SECRETARIAT

1. The Secretary-General shall assist the Chairman of the Board of Directors, and the Chairman of the Executive Sub-Committee in the discharge of their duties, including the observance of the order of business.

2. The Secretary-General, shall attend meetings of the Caucus of Ministers by invitation, and all meetings of the Board of Directors, and the Executive Sub-committee. He will be supported by other staff as necessary.

3. The CTO Secretariat shall be responsible for keeping correct minutes of the proceedings, and for recording and preserving same in books or records; keeping an account of all members, dues, membership emblems, and membership cards; making an annual report; keeping a complete record of all monies received and disbursed; keeping a complete list of names and addresses of all members. It shall be responsible for attending to all duties required by the Board of Directors and making out and transmitting any reports and communications required by the Chairman. It should have, at all meetings, a copy of the Agreement Establishing the CTO and By-Laws.

4. The Secretary-General shall be responsible for issuing all calls or notices regarding the meetings of the Caucus of Ministers, the Board of Directors and the Executive Sub-Committee. At Annual General meetings, or special General Meetings of CTO during the Annual General Meeting, he shall be responsible for ensuring that a record of every motion is kept.

BY-LAW V

CHAPTERS

1. To assist in the fulfilment of the objectives of CTO the Board of Directors is empowered to encourage the development and to authorise the establishment of CYO Chapters at any place in the world.

2. A Chapter may be discontinued by the Board of Directors either upon the request of the voting members of such Chapter or for reasons that the Board of Directors may, at its discretion, consider due and proper.

3. A standardised Chapter Constitution shall be provided to each Chapter by CTO. Chapters may adapt this standardised constitution to the needs of their individual regions and such adaptions shall become effective when approved by the Board of Directors.

BY-LAW VI

MEMBERSHIP DUES

1. CTO Government Members dues shall be assessed by the following formula:
   (a) dues shall be assessed by the Board of Directors according to the number of stay over visitors received by each member country or according to such other formula as the Board of Directors shall approve from time to time.
   (b) The Board of Directors of CTO are empowered to change the categories of assessment and the minimum and/or maximum levels of dues.

BY-LAW VII

INDEMNIFICATION OF MEMBERS AND OFFICERS

Any member or employee of CTO shall be indemnified by CTO against reasonable expenses actually incurred and payments made by him/her in connection with defence of any actions, suits or proceedings in which he/she is made a party by reason of his/her being or having been such member of employee of CTO.

BY-LAW VIII

MISCELLANEOUS PROVISIONS

1. The fiscal year of CTO shall be from 1st January to 31st December.

2. The normal current expenditures for the conduct of CTO shall be valid on the signatures at Headquarters of either:
   (i) the Secretary-General and the CTO Chief Financial Officer, or the Chief Financial Officer and any other accounting officer designated by the Executive Sub-Committee to sign;

(ii) with respect to overseas offices of CTO in New York, the Director of Marketing, and any other officers designated by the Executive Sub-Committee as signatories;

(iii) with respect to overseas offices other than New York, by the Director of Marketing, the Marketing Manager and any other officers designated by the Executive Sub-Committee as signatories;

(iv) notwithstanding the provisions at (ii) and (iii) above the Secretary-General and the Chief Financial Officer can be signatories for any financial transaction of CTO.

3. The records and books of CTO shall be kept at the headquarters of CTO and at such other offices as the Board of Directors direct. The accounts of CTO shall be audited annually and the Auditor's report submitted to the members with a statement of the accounts, not later than one month before the Annual General Meeting.

4. CTO shall retain the emblem currently used by CTA, amended to read CTO. Government Members shall have the right to use CTO emblem. The use of the emblem by non-government members or any other person or entity shall require the prior approval of CTO.

BY-LAW IX

AMENDMENTS OF BY-LAWS

1. These By-Laws may be amended or revoked by a simple majority of the Board of Directors present and voting.

ANNEX I

MEMBER STATES OF CTO SIGNATORY AT NOVEMBER 1988

Anguilla
Antigua & Barbuda
Aruba
The Bahamas
Belize
Bonaire
British Virgin Islands
Cayman Islands
Curacao
Dominica
Dominican Republic
Grenada

Guadeloupe/St. Barts/St. Martin
Haiti
Jamaica
Martinique
Montserrat
Puerto Rico
St. Kitts-Nevis
St. Lucia
St. Vincent and the Grenadines
Suriname
Trinidad and Tobago
Turks and Caicos Islands
U.S. Virgin Islands
Venezuela

ANNEX II

CTO MEMBER STATES

Anguilla
Antigua & Barbuda
Aruba
The Bahamas
Barbados
Belize
Bermuda
Bonaire
British Virgin Islands
Cayman Islands
Cuba
Curacao
Dominica
Dominican Republic
Grenada
Guadeloupe/St. Barts/St. Martin
Guyana
Haiti
Jamaica
Martinique
Mexico
Montserrat

Puerto Rico
St. Eustatius
St. Kitts-Nevis
St. Lucia
St. Vincent and the Grenadines
Suriname
Trinidad and Tobago
Turks and Caicos Islands
U.S. Virgin Islands
Venezuela

34

THE CARIBBEAN TELECOMMUNICATIONS UNION

The communications revolution evidenced by the convergence of several communication media like the telephone, television and computer and made possible by digital technology, has enhanced the importance of telecommunication in business enterprise and national economic development. In the informed perception of some regional telecommunications experts, current developments in telecommunications technology are not mirrored in the institutional arrangements for regulation of the sub-sector regionally, especially in terms of enabling competencies and provision of human and financial resources for the Caribbean Telecommunications Union. Furthermore, it has been observed that the personnel of the Secretariat are not accorded the status of internal civil servants thereby encouraging bureaucratic interference with its functioning with probable negative consequences for the efficient delivery of technical services on a reliable basis.

Membership of the Caribbean Telecommunications Union is open to Member States of the Caribbean Community and any other country of the Caribbean willing and able to exercise the rights and assume the obligations of membership of the Union. Admission to membership requires the unanimous vote of members of the General Conference. The objectives of the Caribbean Telecommunications Union include coordination of the planning, programming and development of intra-regional and international communications networks to accommodate the immediate and future telecommunications needs of the Region; assisting the development of the national components of regional and international telecommunications networks; and promoting general awareness of the telecommunications needs of the Caribbean Region. The Union is also charged with encouraging the exchange of information between the telecommunications administrations of the Member States; fostering the coordination of technical standards and routing plans for intra-regional and international telecommunications traffic; harmonising national positions in preparation for regional and international telecommunications conferences and establishing linkages with information bases of other telecommunications organisations and in particular the International Telecommunications Union and the Centre for Telecommunications Development.

The organs of the Union are the General Conference, the Executive Council, the Secretariat and the Technical Conference. The General Conference, the supreme organ of the Union, comprises Ministerial representatives of members of the Union. The General Conference, *inter alia*, establishes the general policies of the Union for the

achievement of its objectives; receives and considers reports of the Executive Council on the activities of the Union; examines and approves the programme of activities of the Union and its biennial budget; establishes the structure of the Secretariat and approves the appointment of the Secretary General, and determines the contributions of Members to the regular budget of the Union. The Executive Council, subject to the policies and directives of the General Conference is tasked, *inter alia*, with supervising the administration of the Union, formulating the regulations for the administrative, financial, technical and other activities of the Union; preparing the work programme and budget of the Union for submission to the General Conference and determining the representation of the Union at conferences or meetings to which the Union is invited. The General Conference may delegate powers to the Executive Council which shall be the decision-making body of the Union between sessions of the General Conference within the limits of its competence. The Executive Council is also required to make proposals to the General Conference concerning the conclusion of agreements with other entities and institutions desirous of assisting the Union in the achievement of its objectives. The Technical Conference comprising experts from Members of the Union is convened immediately before the Ordinary Session of the General Conference. Interested telecommunications organisations may be invited to attend the Technical Conference. The Secretariat, comprising the Secretary General as the chief administrative officer, and such other staff as may be required, is the principal administrative organ of the Union.

The Union possesses full juridical personality and enjoys in the territories of Member States such legal status and capacity and such privileges and immunities as may be required for the performance of its functions and achievement of its objectives. The Union may collaborate with the International Telecommunications Union (ITU) and other interested regional and international bodies, but nothing in the Agreement must be construed as derogating from the sovereign rights of Members to determine their telecommunications activities.

AGREEMENT FOR THE ESTABLISHMENT OF THE CARIBBEAN TELECOMMUNICATIONS UNION

The governments of the Member States of the Caribbean Community,

Recognising the sovereign right of each State to regulate its telecommunication system:

Aware of the growing importance of telecommunications for the social and economic development of all States:

Conscious of the need to foster international cooperation and economic and social development among peoples by means of efficient telecommunications Services:

Have agreed as follows:

Article 1
Establishment of the Caribbean Telecommunications Union

The Caribbean Telecommunications Union (hereinafter referred to as "the Union") is hereby established with the membership, functions and powers as specified in this Agreement.

Article 2
Membership

Membership of the Union shall be open to:

(a) Member States of the Caribbean Community;

(b) Any other country within the Caribbean Region able and willing to exercise the rights and assume the obligations of membership of the Union, and which is admitted as a member by unanimous decision of the General Conference.

Article 3
Objectives of the Union

The objectives of the Union shall be -

(a) To facilitate the coordination of the planning, programming and development of intraregional and international communications networks to meet the immediate and future telecommunications needs of the Region.

(b) To assist the development of the national components of regional and international telecommunications networks.

(c) To promote the general awareness of the telecommunications needs of the Caribbean Region and its potential for promoting the socio-economic development of the Region.

(d) To encourage the exchange of information, views and ideas between the telecommunications administrations of Members.

(e) To foster coordination within the Caribbean Region of technical standards and routing plans for intraregional and international traffic.

(f) To seek the adoption of efficient operating methods in national, regional and international telecommunications services.

(g) To harmonise as far as possible the positions of members in preparation for international and regional telecommunications conferences and other meetings.

(h) To encourage the transfer of technology in the field of telecommunications among Members.

(i) To encourage the transfer of technology in the field of telecommunications among Members.

(j) To establish linkages with the information bases of other telecommunications organisations and, in particular, the Centre for Telecommunications Development at the International Telecommunications Union (ITU) in Geneva.

Article 4
Functions of the Union

The pursuance of its objectives, the Union may:

(a) Undertake, in coordination with the ITU when appropriate, technical and other studies relating to developments in telecommunication technology of common interest to its Members.

(b) Encourage the exchange of information, technical experts and other specialised personnel amongst the telecommunications organisations of its Members.

(c) Study or arrange for the study of the feasibility of the transfer of technology in the field of telecommunications amongst its Members.

(d) Arrange where so required for the provision of technical cooperation among its Members for the realisation of their telecommunications projects.

(e) Advise its Members on the assessment of their needs with respect to telecommunications personnel and programmes for training.

(f) Promote and assist in the formulation and implementation of bilateral or multilateral telecommunications programmes within the Caribbean Region in cooperation with appropriate international or regional organisations.

(g) Organise Conferences, Seminars and Workshops.

(h) Draw upon the resources of other regional and international telecommunications organisations and, in particular, the Centre for Telecommunications Development.

(i) Provide a forum for the discussion and resolution of telecommunications issues concerning the Region.

Article 5
Organs of the Union

1. The Organs of the Union shall be the General Conference, the Executive Council and the Secretariat as the permanent Organs, and the Technical Conference as the non-permanent Organ.

2. Meetings of the Organs of the Union shall be held at the Headquarters of the Union, unless the respective Organs decide otherwise.

Article 6
Headquarters of the Union

The Headquarters of the Union shall be established in the Member State of Trinidad and Tobago.

Article 7
Official Language of the Union

The official language of the Union shall be English.

Article 8
The General Conference

1. The General Conference shall be the supreme Organ of the Union and shall be composed of the Ministerial representatives of Members of the Union.

2. Each Member of the Union shall have one vote in the General Conference.

3. The representatives of entities operating in the Region involved in telecommunications may participate in the deliberations of the General Conference as advisers to Members of the Union.

4. The General Conference shall meet in ordinary session biennially and in extraordinary session when circumstances require. Extraordinary sessions shall be convened by the President of the General Conference at the request of two-third of the Members of the Union.

5. The General Conference shall

(a) establish general policies for the fulfilment of the objectives of the Union;

(b) receive and consider the reports of the Executive Council on the activities of the Union as well as the reports and recommendations of the other principal Organs of the Union;

(c) conclude or revise, if necessary, agreements between the Union and other parties;

(d) revise this Agreement as it deems necessary;

(e) examine and approve the programme of activities of the Union and its biennial budget;

(f) adopt its own rules of procedures:

(g) adopt the principle of contributions by Members of the Union and determine the scale of contribution by Members;

(h) establish the structure of the Secretariat and elect the Secretary-General of the Union and determine the salary and other conditions of service.

(i) establish such subsidiary Organs it shall deem necessary to achieve the objectives of the Union and approve the rules and regulations in accordance with which these Organs shall function;

(j) approve the staff rules and regulations and the financial and other rules and regulations governing the activities of the Union;

(k) adopt at the conclusion of each of its sessions a report addressed to all Members;

(l) appoint the Auditors of the Union.

6. Two-thirds of the Members of the Union shall constitute a quorum for meetings of the General Conference.

7. Subject to the provisions of this Agreement, the decisions of the General Conference shall be made by a consensus of all Members present and eligible to vote.

Article 9
President and Vice President of the Union

1. The General Conference shall elect the President and Vice-President of the Union at each ordinary session from among the representatives of Members of the Union and they shall hold office until the next ordinary session of the General Conference but they shall be eligible for re-election to the same office for one further term.

2. The President shall preside over sessions of the General Conference and each such session shall determine the date and venue of the next ordinary session of the General Conference.

3. If the President is for any reason unable to perform the functions of his office, the Vice- President shall perform those functions.

4. If neither the President not the Vice-President is able to preside over any session of the General Conference, a Chairman for the session shall be elected from among the Ministerial representatives of the Members present.

Article 10
The Executive Council

1. The Executive Council shall comprise all Members of the Union.

2. Each Member of the Executive Council shall be represented at meetings of the Council by one representative who may be accompanied by advisers and such representative shall, as far as practicable, be a person qualified or experienced in the field of telecommunications or directly responsible to or for the telecommunications administration of the Member.

3. The Executive Council, pursuant to such policies as the General Conference may establish and such specific directives as the General Conference may issue, shall -

(a) supervise the administrative functions of the Union;

(b) formulate such regulations as it may consider necessary for the administrative, financial, technical and other activities of the Union;

(c) consider the programme of activities and budget of the Union and submit them for the approval of the General Conference;

(d) assess the annual contribution of each Member of the Union to the expenditure of the Union;

(e) consider and approve agreements with other parties other than agreements referred to in Article 10 (4) (b);

(f) consider the annual report on the activities of the Union and arrange for the audited accounts of the Union to be submitted to the next General Conference;

(g) approve the agenda of the General Conference as well as the agenda and programmes of the Technical Conferences and Seminars submitted to it by the Secretary-General;

(h) fix the salaries and allowances of officers of the Union, other than the Secretary-General;

(i) fix the date of the Meeting of the Technical Conference preceding the next General Conference;

(j) determine the representation of the Union at Conferences or meetings to which the Union may be invited;

(k) adopt its own rules of procedure.

4. The Executive Council shall -

(a) between the sessions of the General Conference be the decision-making body of the Union within the limits of the powers delegated to it by the General Conference;

(b) submit to the General Conference proposals concerning the entering into agreements and contracts by the Union with Governments or institutions or other entities desirous of assisting the Union or its members in achieving the objectives of the Union.

5. The Executive Council shall elect a Chairman and Vice-Chairman biennially from among its Members; they shall hold office until the election of their successors in office but they shall be eligible for re-election provided always that no person shall be eligible for election to the same office for more than two successive terms of office.

6. The Executive Council shall meet at least once in every year. The Chairman shall summon a meeting of the Executive Council at the request of two-thirds of the Members of the Union.

7. A quorum for a meeting of the Executive Council shall be two-thirds of its Members.

Article 11
The Secretariat

1. The Secretariat shall be the principal administrative Organ of the Union and shall comprise the Secretary-General, as its chief administrative officer, and such other staff as may be required. The Secretary-General shall be elected by the General Conference for a period extending up to the election of a successor in office at the next ordinary session of the General Conference, but the officer shall be eligible for re-election.

2. The Secretary-General shall be responsible to the Executive Council for all administrative and financial activities of the Union.

3. The Secretary-General shall be the legal representative of the Union.

4. Without prejudice to the generality of the powers of the chief administrative officer of the Secretariat, the Secretary-General shall -

(a) prepare the provisional programme and two-year budget of the Union and submit them to the Executive Council for the consideration of the General Conference;

(b) prepare an annual budget and submit it to the Council for approval;

(c) present audited accounts of the Union for the preceding financial year to the Council for consideration and approval;

(d) attend all meetings of the Conference and the Council in a consultative capacity;

(e) appoint the other staff of the Secretariat, ensuring as far as practicable the equitable distribution among the members of the union;

(f) implement decisions of the General Conference and the Executive Council;

(g) take the necessary measures together with Members of the Union to ensure the implementation of the various programmes approved by the Union;

(h) prepare and present to the Executive Council, an annual report on the activities of the Union;

(i) prepare and circulate to members of the Union and the Executive Council, periodic reports on the activities of the Union;

(j) convene all meetings and conferences of the Union and provide the Secretariat services;

(k) perform such other similar duties as may be assigned to him by the General Conference or the Executive Council;

(l) act as Secretary to the Executive Council.

Article 12
Technical Conference

1. The Technical Conference shall be composed of experts from Members of the Union and shall convene immediately prior to the ordinary session of the General Conference.

2. International and regional telecommunications organisations and other bodies involved in telecommunications may be invited to attend as observers at sessions of the Technical Conference which shall consider special subjects relating to regional and international telecommunications and items put on its agenda by the General Conference of the Executive Council.

3. The report of the Technical Conference shall be submitted to the General Conference.

Article 13
Finances of the Union

1. The expenses of the Union shall be borne by Members of the Union as apportioned by the Executive Council in determining the annual contributions of Members.

2. The revenue of the Union shall be derived from the annual contributions of Members of the Union, grants and donations and income earned by the Union for any services provided by it.

3. The expenses of the Union shall be made up of the administrative costs relating to -

(a) sessions of the General Conference;

(b) sessions of the Executive Council;

(c) the Secretariat;

(d) the Technical Conference;

(e) seminars and other approved activities;

(f) sessions of subsidiary bodies established by the Union;

(g) technical assistance activities.

4. Members of the Union and observers shall bear the expense of their delegations to meetings of any of the Organs of the Union.

5. The accounts of the Union shall be kept in the currency specified by the Executive Council.

Article 14
Legal Status

1. The Union shall possess full juridical personality.

2. The Union shall enjoy in each Member State, such legal status and legal capacity and such privileges and immunities as may be necessary for the fulfilment of its objectives and the exercise of its functions.

Article 15
Suspension and Forfeiture of Rights of a Member

1. Any Member of the Union whose contributions to the Union are in arrears for two years shall forfeit its right to vote until such time as this situation is rectified.

2. The General Conference may, by a two-thirds majority of the Members of the Union, suspend a Member which -

(a) practices a policy contrary to the objectives and principles of the Union;

(b) fails to honour its financial obligations to the Union for four (4) consecutive years.

3. The General Conference may, by a two-thirds majority of the Members of the Union, revoke the suspension of a Member suspended under the provisions of 2(a) of this Article.

4. Suspension of a Member shall not affect its obligation to fulfill its financial obligations to the Union during the period of suspension.

Article 16
Rules of Procedure

Each Conference of Meeting of the Union shall adopt its own rules of procedure.

Article 17
Relations Between the Union and Other International Bodies

1. In order to encourage regional and international co-operation in the field of telecommunications, the Union may collaborate with the International Telecommunications Union and other international regional and sub-regional bodies whose activities and interests are related to telecommunications. The Union may invite such bodies as observers to the proceedings of its conferences in a consultative capacity on the basis of reciprocity.

2. Arrangements may be concluded between the Union and other international regional and sub-regional bodies.

Article 18
Technical Co-operation

1. Members of the Union shall promote the exchange of experts and other personnel. They may also exchange study missions on technical and administrative matters and organise workshops and seminars.

2. The Union shall endeavour to secure training opportunities for executives and other staff of Member States in cooperation with the International Telecommunications Union and other specialised institutions in this field.

Article 19
Sovereign Rights of Member States

1. The provisions of this Agreement shall be without prejudice to the national legislation of Members.

2. Nothing in this Agreement shall affect the right of Members of the Union to develop and regulate their telecommunications networks and services.

Article 20
Amendment

Any Member of the Union may submit to the Secretary-General of the Union, proposals for the amendment of this Agreement for the consideration of the General Conference and every such amendment shall take effect on receiving the unanimous approval of the General Conference.

Article 21
Withdrawal

1. Any Member of the Union may withdraw from membership of the Union by giving not less than twelve months' notice in writing to the Secretary-General of the Union who shall forthwith notify Members of the Union.

2. A Member withdrawing from the Union undertakes to honour all financial obligations duly incurred under this Agreement prior to the effective date of its withdrawal.

Article 22
Application of Provisions of the
International Telecommunication Convention

If any matter is not provided for in this Agreement, the Union shall act in conformity with the relevant provisions of the International Telecommunication Constitution and Convention in force and, in particular, those provisions relating to regional telecommunications organisations.

Article 23
Implementation

Members of the Union undertake to take all steps necessary for the implementation of this Agreement.

Article 24
Signature

This Agreement shall be open for signature by any Member State of the Caribbean Community.

Article 25
Ratification

This Agreement shall be subject to ratification by the signatory States in accordance with their respective constitutional procedures. Instruments of Ratification shall be deposited with the Secretary-General of the Caribbean Community who shall transmit certified copies to each Member of the Union.

Article 26
Entry into Force

This Agreement shall enter into force upon the deposit of seven instruments of Ratification including Instruments of Ratification deposited on behalf of three MDCs.

Article 27
Accession

1. Any country referred to in Article 2 (b) of this Agreement may accede to this Agreement on such terms and conditions as may be determined by the General Conference.

2. Admission to membership shall take effect from the date on which an appropriate Instrument of Accession is deposited with the Secretary-General of the Union.

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

Done in a single copy which is deposited with the Secretary-General of the Caribbean Community, who shall transmit certified copies to all of the Members.

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THE CARIBBEAN REGIONAL CENTRE FOR THE EDUCATION AND TRAINING OF ANIMAL HEALTH AND VETERINARY PUBLIC HEALTH ASSISTANTS

The preambular paragraphs of the Agreement establishing the Caribbean Regional Centre for the Education and Training of Animal Health and Veterinary Public Health Assistants confirm that some of the considerations informing the initiative to establish the Centre were a shortage of veterinary manpower resources to protect animal health, the expansion of the livestock industry through augumentation of relevant human resources and the desire to be self-sufficient in protein of animal origin. The stated objectives of the Centre include improvement in the qualify of life in the Region by ensuring an adequate supply of trained personnel to satisfy the human resources needs of animal health services in the Region; reduction in reliance on extra-regional programmes for the training of animal and veterinary public health personnel; and making more effective use of scarce veterinary medical resources in the Region and the provision of consultancy services to the Member States.

REPAHA commenced as a cooperative endeavour among various donor organisations and Member States of the Caribbean Community including the UNDP, PAHO/WHO, CIDA, CFTC, EDF and the following participating Governments, namely, Anguilla, Antigua, Barbados, Belize, the British Virgin Islands, the Cayman Islands, Dominica, Grenada, Guyana, Jamaica, Montserrat, the Netherlands Antilles, St. Lucia, St. Christopher-Nevis, St. Vincent, Suriname, and Trinidad and Tobago. The Centre had a protracted development beginning with a resolution adopted by the Ministers of Agriculture of the hemisphere at the Fourth Inter-American Meeting on Foot and Mouth Disease and Zoonoses held in Peru in 1971 when a resolution was unanimously adopted to urge Governments to evaluate veterinary manpower resources and to establish relevant training programmes. Similar resolutions were adopted at the Fifth and Sixth Inter-American Meetings in Mexico in 1972 and Colombia in 1973. Following the meeting in Colombia, PAHO assembled a team of experts funded by UNDP to determine the needs of countries in the Caribbean for veterinary manpower resources. The Conference of Ministers of Health of the Caribbean that convened in Georgetown, Guyana, in 1972 endorsed the need for an appropriate institution for the training of animal health and veterinary medical personnel. The Centre opened its doors in 1975 and has so far trained 467 assistants.

Membership of the Centre is open to all states of the Commonwealth Caribbean and any other country of the Caribbean Region. The bodies of the Centre consist of a Board of Governors, a Board of Directors, a Principal supported by such staff as considered necessary. The Board of Governors, consisting of Ministers of Agriculture designated by Member Countries, has overall responsibility for the policy of the Centre and is competent to give policy directions of a general or special nature to the Board of Directors. The powers of the Board of Governors include approving the budget and work programmes of the Centre. The Board of Governors also has power to borrow monies and to invest any monies belonging to the Centre. The Board of Directors comprises one director each nominated by Barbados, Guyana, Jamaica, Suriname and Trinidad and Tobago and one Director jointly nominated by each of the following groups and bodies - Antigua and Barbuda, St. Kitts-Nevis; Grenada, St. Lucia, St. Vincent and the Grenadines; Anguilla, the British Virgin Islands, the Cayman Islands, the Netherlands Antilles; the University of the West Indies, the University of Guyana and the Caribbean Community. Subject to the general policy directions of the Board of Governors, the Board of Directors has responsibility for the operation of the Centre and the implementation of its policies.

The revenues of the Centre are derived from the annual contributions of Member States; contributions from third States; grants and donations to finance research; fees payable by students to the Centre; payments for consultancy services provided by the Centre and income from any other sources. The administrative headquarters of the Centre are located in Guyana with which the Centre was required to conclude an agreement relating to the privileges and immunities to be recognised and granted to the Centre. The Centre possesses full juridical personality with legal status in Member Countries to contract, acquire and dispose of moveable and immoveable property and to institute and defend legal proceedings. Member States also accord to the Centre such privileges and immunities required for the fulfilment of its objectives and the exercise of its functions.

Phase I of the Centre ended in December 1980 and Phase II in December 1984. PAHO terminated its role as executing agency in 1985 and 1987 the Standing Committee of Ministers of Agriculture of the Caribbean Community determined that CARICOM should function as the executing agency after 1988 and that condition continues up to the present. A drop-off in the student intake has aggravated the financial constraints of the Centre and has left the continued operation of the Centre in doubt at present.

AGREEMENT ESTABLISHING THE CARIBBEAN REGIONAL CENTRE FOR THE EDUCATION AND TRAINING OF ANIMAL HEALTH AND VETERINARY PUBLIC HEALTH ASSISTANTS

The contracting parties:

Sharing the goal of becoming self-sufficient in protein of animal origin;

Concerned that available human resources are insufficient to protect animal health;

Recognising that expansion of the livestock industry is impossible without the expansion of human resources;

Aware that enormous economic, social and agricultural benefits are to be realised from the application of modern animal husbandry and veterinary medical services;

Convinced that a corps of Animal Health and Veterinary Public Health Assistants allows the best use of limited veterinary medical professionals in establishing a healthy and prosperous animal industry;

Hereby agree as follows:

Article 1
Establishment

By this Agreement the Contracting Parties establish the Caribbean Regional Centre for the Education and Training of Animal Health and Veterinary Public Health Assistants (hereinafter called "the Centre") having the membership, functions and powers hereinafter specified.

Article 2
Membership

1. Membership of the Centre shall be open to:
   (a) Countries listed in the Annex to this Agreement;
   (b) Any other country in the Caribbean Region (hereinafter referred to as "the Region").

2. The Countries listed in the Annex to this Agreement, the Governments of which sign this Agreement in accordance with Article 17 and ratify it in accordance with Article 18 shall become members of the Centre.

Article 3
Objectives of the Centre

1. The objectives of the Centre shall be to -
   (a) Improve the quality of life in the Region by ensuring the supply of adequately and appropriately trained personnel to meet the manpower needs of the animal health services of the Region;
   (b) Reduce reliance on extraregional programmes for the preparation of animal and veterinary public health personnel;
   (c) Make a more effective use of scarce veterinary medical resources within the Region;
   (d) Provide Consultancy Services to Member Countries;
   (e) Create a more broadly based veterinary service in the Region, which will enable Member Countries to -
      (i) utilise professional manpower more efficiently;
      (ii) expand the national animal health programmes in order to control and eradicate the more important diseases;

(iii) enforce more efficiently the regulations aimed at preventing the importation of exotic diseases and ensure better sanitary measures at points of entry of the territory of a Member Country;

(iv) provide a more efficient veterinary service in order to deal more effectively with any imported exotic disease; and

(v) provide better food inspection services, ensuring that all foods of animal origin are adequately inspected to produce a safe and wholesome product.

2. For the purposes of this Article, the Centre may take such action as may be necessary or expedient for the attainment of its objectives.

Article 4
Structure

The Centre shall have the following -

(a) A Board of Governors;

(b) A Board of Directors;

(c) A Principal;

(d) Such other officers and staff as may be necessary.

Article 5
Board of Governors

Composition

1. The Board of Governors shall consist of the Minister responsible for Agriculture of each Member Country or such other Minister as the Member Country may designate.

2. Where a Minister designated under paragraph 1 of this Article is unable to attend a Meeting of the Board of Governors, the Member Country may designate any other person as an alternate to attend such Meeting in his stead.

Article 6
Board of Governors

Powers

The Board of Governors shall have the power to -

(a) give general or specific policy directions to the Board of Directors;

(b) appoint the Principal after it has considered the recommendation of the Board of Directors;

(c) appoint the Chairman of the Board of Directors;

(d) authorise agreements to be entered into with Member Countries, Third Countries or other entities;

(e) approve the budget of the Centre to be prepared annually for the next following three financial years;

(f) approve the work programmes annually for the next following three financial years;

(g) borrow monies and invest any monies belonging to the Centre, including any unapplied income, in such stocks, funds, full paid-up shares or securities as it, from time to time, thinks fit;

(h) govern, manage and regulate the finances, accounts, investments, property, business and all of its affairs and for that purpose shall have the power to appoint bankers and any officers or agents whom it may deem expedient to appoint;

(i) appoint auditors and approve annual audited financial statements of the Centre.

Article 7
Board of Governors

Voting and Procedure

1. The Board of Governors shall hold an annual general meeting. Special meetings of the Board of Governors may be called either by the Board of Directors or on a requisition of not less than three Members of the Board of Governors.

2. Each Member of the Board of Governors shall have one vote.

3. Except as otherwise expressly provided in this Agreement, all matters before the Board of Governors shall be determined by the votes of a majority of Member Countries represented at the Meeting.

4. A two-thirds majority of the membership of the Board of Governors shall constitute a quorum for any meeting of the Board of Governors.

5. The Board of Governors may establish a procedure for obtaining a vote on a specified question without calling a meeting.

6. At each annual meeting the Board of Governors shall elect one of the Governors as Chairman who shall hold office until the election of the next Chairman.

7. The Chairman shall preside at all meetings of the Board of Governors but in the event of his absence or his inability to preside, the Governors present and constituting a quorum shall elect from among themselves a Governor to preside at that meeting.

Article 8
Membership of the Board of Directors

1. The composition of the Board of Directors shall be as follows:

(a) One member nominated by -

(i) the Government of Barbados;

(ii) the Government of Guyana;

(iii) the Government of Jamaica;

(iv) the Government of Suriname;

(v) the Government of Trinidad and Tobago;

(vi) the Governments of Antigua and Barbuda and Saint Christopher and Nevis;

(vii) the Governments of Grenada, Saint Lucia and Saint Vincent and the Grenadines;

(viii) the Governments of Anguilla, British Virgin Islands, Cayman Islands and Netherland Antilles;

(ix) the University of the West Indies;

(x) the University of Guyana;

(xi) the Caribbean Community;

(b) The Chairman of the Board of Directors appointed pursuant to Article 6(c).

2. When other Countries become Members after the entry into force of this Agreement, the Board of Governors may determine the number of Directors on the Board of Directors.

3. Save as otherwise provided in paragraph 2 of Article 10, the Chairman of the Board of Directors, the representatives of the University of the West Indies, the University of Guyana and the Caribbean Community, shall sit as non-voting members of the Board of Directors.

4. (a) Alternate directors shall be appointed by the appropriate authorities in like manner as appointments are made in accordance with paragraph 1(a) of this Article.

(b) Directors and Alternate Directors shall be persons of integrity and high competence preferably with wide professional experience in animal health with respect to practice, administration or research.

(c) Subject to paragraph 2 of Article 10, an Alternate Director shall in the absence of his principal attend any meeting and shall be entitled to vote on any matter.

5. Directors and Alternate Directors shall hold office for a term of three years and shall be eligible for reappointment. They shall continue in office until their successors shall have been appointed and assumed office. If the office of a Director or his Alternate becomes vacant before the expiration of his term of office, the vacancy shall be filled by a new Director or Alternate who shall be appointed in the same manner as his predecessor, and he shall hold office for the remainder of the term of office of his predecessor.

Article 9
Functions and Powers of the Board of Directors

1. The Board of Directors shall be responsible, subject to any directions of the Board of Governors, for the general operation of the Centre. It shall implement the general policies of the Centre and may give the Principal general instructions for the implementation of such policies.

2. Without prejudice to the generality of the functions specified in paragraph 1 of this Article, the Board of Directors shall in particular -

(a) make recommendations to the Board of Governors in respect of the appointment of the Principal;

(b) receive and may approve the annual report of the Principal, which shall include the financial report;

(c) make recommendations for the approval annually by the Board of Governors of the work programme of the Centre for the next following three financial years;

(d) make recommendations for the approval by the Board of Governors of Estimates of Expenditure and the audited accounts of the Centre;

(e) assist the Principal in seeking the support and the resources necessary for the fulfilment of the objectives of the Centre;

(f) except as is otherwise provided, exercise control over appointments, and termination of appointments;

(g) cause to be kept, appropriate books of account, which shall be audited at least once a year by an auditor who shall be a qualified and independent accountant in the active practice of his profession, appointed by the Board of Governors and shall also cause to be prepared annual audited statements within ninety days after the end of the financial year showing in detail the income and expenditure of the Centre and the assets and liabilities as they stood at the end of the immediate preceding financial year;

(h) carry out such other functions as the Board of Governors may delegate to it from time to time.

3. The Board of Directors may delegate to the Principal such of its functions as it thinks fit, provided that no such delegation shall preclude the Board of Directors from so acting at any time it thinks fit without prejudice however to anything done by the Principal under that delegation.

Article 10
Meetings of the Board of Directors

1. The Board of directors shall meet at least twice a year or as often as the business of the Centre may require. A majority of Directors entitled to vote shall constitute a quorum for any meetings of the Board of Directors.

2. Each Director entitled to vote shall have one vote and the Chairman of the Board of Directors shall have a casting vote only.

3. All matters before the Board of Directors shall be determined by a majority vote of Directors.

4. Subject to this Agreement, the Board of Directors shall regulate its own procedure.

Article 11
Chairman of the Board of Directors

1. The Chairman of the Board of Directors shall be appointed by the Board of governors after considering the recommendation of the Board of Directors.

2. The Chairman of the Board of Directors, while holding office, shall not be a Director or Alternate Director appointed by a Member Country or by any Body which is represented on the Board of Directors.

3. The term of office of the Chairman of the Board of Directors shall be for three years and he shall be eligible for reappointment.

4. The Deputy Chairman of the Board of Directors shall be elected by the Board of Directors from among its members.

Article 12
The Principal

The Principal shall be responsible to the Board of Directors for the organisation and administration of the Centre and of the courses of study and practical instruction conducted by the Centre and shall exercise such other functions as the Board of Directors may, from time to time entrust to him.

Article 13
Staff of the Centre

1. The Principal shall appoint such members of staff in accordance with the Estimates approved by the Board of Governors as are necessary for the functioning of the Centre.

2. All staff appointments shall be made subject to the terms and conditions if service determined by the Board of Directors.

Article 14
Revenue

The revenue of the Centre shall be derived from:

(a) the annual contributions of Member Countries;

(b) such contributions as may be made by other Countries or agencies whether within or outside the Region;

(c) such grants or donations as may be made from any source for the financing of special research, development or teaching projects or for fellowships;

(d) such fees as may be determined from time to time by the Board of Directors as fees payable to the Centre.

(e) payments made to the Centre in consideration of consultancy services provided through the Centre;

(f) income from any other sources.

Article 15
Headquarters of the Centre

1. The headquarters of the Centre shall be located in Guyana.

2. The Centre shall conclude with the Government of Guyana an Agreement relating to the privileges and immunities to be recognised and granted in connection with the Centre.

35 The Caribbean Regional Centre....pmd 859 4/1/2003, 9:03 AM

Article 16
Legal Status

1. The Centre shall possess full juridical personality.

2. The Centre shall enjoy in the territory of each Member Country such legal status and legal capacity as may be necessary for the fulfilment of its objectives and the exercise of its functions. In particular, the Centre shall have the capacity to -

(a) contract;

(b) acquire and dispose of movable and immovable property;

(c) institute and defend legal proceedings.

3. The Centre shall enjoy in the territory of each Member Country such privileges and immunities as may be necessary for the fulfilment of its objectives and the exercise of its functions.

4. Each Member Country hereby agrees to take such action as is necessary to make effecting in its territory the provisions of this Article.

Article 17
Signature

This Agreement shall be deposited with the Secretary-General of the Caribbean Community (hereinafter called "the Depositary") and shall be open for signature by any country listed in the Annex to this Agreement.

Article 18
Ratification

1. This Agreement and any amendments hereto shall be subject to ratification by Member Countries in accordance with their respective constitutional procedures.

2. Instruments of Ratification shall be deposited with the Depositary who shall transmit certified copies thereof to each Member country.

Article 19
Entry into Force

This Agreement shall enter into force on the deposit of Instruments of Ratification by nine of the countries listed in the Annex to this Agreement including Guyana, Jamaica and Trinidad and Tobago

Article 20
Accession

1. Any country listed in the Annex to this Agreement which upon the entry into force of this Agreement in accordance with Article 19 wishes to become a Member Country after that date and any other country in the Region which has been admitted to membership of the Centre by the Board of Governors in accordance with paragraph 2 of this Article, may accede to the Agreement by the deposit of its Instrument of Accession with the Depositary.

2. Any other country in the Region which wishes to become a Member of the Centre shall be admitted to membership of the Centre on such terms and conditions as the Board of Governors may decide.

3. Admission to membership under this Article shall take effect on the date on which the Instrument of Accession is deposited with the Depositary.

Article 21
Amendment

1. Any Member Country may make proposal for amending this Agreement. Such proposals shall be submitted through the Depositary to the Board of Governors for its approval.

2. Any such amendment shall enter into force upon the deposit of Instruments of Ratification by all Member Countries.

Article 22
Withdrawal

1. Any Member Country may withdraw from this Agreement by giving twelve months' notice in writing to the Depositary who shall forthwith notify other Member Countries.

2. A Member Country withdrawing from the Centre undertakes to honour any financial obligations duly assumed during its participation in this Agreement.

Article 23
Dispute

Any dispute between the parties relating to the interpretation or application of this Agreement shall be settled by negotiation.

Article 24
Language

English shall be the official language of the Centre.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have affixed their signatures to this Agreement.

Done in a single copy which shall be deposited with the Secretary-General of the Caribbean Community who shall transmit certified copies to all the Contracting Parties.

ANNEX

Anguilla
Antigua and Barbuda
Bahamas
Barbados
Belize

British Virgin Islands
Cayman Islands
Dominica
Grenada
Guyana
Jamaica
Montserrat
Netherland Antilles
Saint Christopher and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Suriname
Trinidad and Tobago

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THE OPERATION OF THE CARIBBEAN EPIDEMIOLOGY CENTRE

JAN 2001-DEC 2005

The status of the Caribbean Meteorological Centre (CAREC) as an institution within the CARICOM System is not without considerable doubt. CAREC is operated by the Pan American Health Organisation (PAHO/WHO) in accordance with the Multilateral Agreement for the Operation of the Trinidad Regional Virus Laboratory signed by the parties thereto on June 18, 1974 and is amended and extended through December 31, 1995 and December 31, 2000. Despite this, the role of CAREC is so critical for human survival in the Caribbean Community, especially in view of the recent HIV/AIDS pandemic in the Region, that it was considered wise to err on the side of caution and include this institution in the collection of constituent instruments of organisations classified as belonging to the CARICOM system.

CAREC is devoted to improving the health status of the Caribbean people by working with and advancing the capability of its Members in the areas of epidemiology, laboratory technology and related public health disciplines through technical cooperation, services, training and research. The functions of CAREC include serving as a specialised technical resource of Caribbean Cooperation in Health (CCH) to assist, advise and cooperate with Members in the surveillance, prevention and control of communicable and non-communicable diseases; acting as a centre for epidemiological and statistical analysis, including situational analysis and trend assessment for Members or entities cooperating with or participating in CAREC; assisting, advising and cooperating with members on attaining levels of national epidemiological and laboratory capacity necessary for defining health sector priorities and designing effective interventions and evaluating performance; providing reference and referral laboratory services in microbiology, immunology and medical entomology in support of national and regional programmes of disease surveillance and control. CAREC's activities comprehend health situation analysis and trend assessment; laboratory services; education and training; research, publications and general management of the institution.

The management structure of CAREC comprises a Council, the Scientific Advisory Committee (SAC) and the Secretariat. The Council is comprised of representatives of the following Governments and organisations: the Minister of Health of Trinidad and Tobago, five representatives designated by the Council for Human and Social Development (COHSOD); one representative each from UWI, CHRC, CARICOM Secretariat, PAHO/WHO, and SAC. The Director of CAREC is the Secretary for the

Council and may participate in its deliberations without the right to vote. The Scientific Advisory Committee is comprised of three members designated by the UWI; one designated by the University of Guyana, four designated by COHSOD; one each designated by Trinidad and Tobago, the CARICOM Secretariat and CHRC and five members designated by PAHO/WHO. The SAC advises the Director of PAHO/WHO through the Council about the scientific programmes of CAREC. CAREC is funded by contributions of Member Governments, 55.04 percent of which is provided by Trinidad and Tobago; the remainder is contributed by other member Governments.

Member Governments accord to PAHO/WHO officials assigned to CAREC, the privileges and immunities set out in the Convention on Privileges and Immunities of the Specialised Agencies of the United Nations. Such privileges and immunities are also assigned to CEREC and its officials *mutatis mutandis*. Member Governments undertake to take all measures necessary to facilitate the entry into, residence in, and departure from their jurisdictions of persons having official business with CAREC. CAREC also has juridical personality and the capacity to perform any legal act appropriate for the performance of its functions prescribed in or under the Multilateral Agreement.

MULTILATERAL AGREEMENT FOR THE OPERATION OF THE CARIBBEAN EPIDEMIOLOGY CENTRE

JAN 2001-DEC 2005

The governments and organisations party to this agreement ("the Members"),

Desiring to provide for the continued operation of the Caribbean Epidemiology Centre ("CAREC") , by the Pan American health Organisation/World Health Organisation ("PAHO/WHO"), in conformity with the Multilateral Agreement for the Operation of the Trinidad Regional Virus Laboratory signed by the Parties thereto on June 18, 1974, July 14, 1974 and October 4, 1974, respectively, and as amended and extended through 31 December, 1995, and December 231, 2000.

Considering the importance of CAREC to the health of the peoples of the Caribbean,

Have agreed on the operation of CAREC and its financial support as set out below.

PART I - MISSION

The mission of CAREC shall be, among others, to improve the health status of Caribbean people by working with and advancing the capability of the Members in epidemiology, laboratory technology, and related public health disciplines through technical cooperation, service, training, and research, and a well trained, motivated staff.

PART II - FUNCTIONS

The functions of CAREC shall be:

1. To serve as a specialised technical resource of Caribbean Cooperation in Health (CCH) to assist, advise, and cooperate with Members in the surveillance, prevention, and control of non-communicable as well as communicable diseases and in the development of health promotion programmes by the Members to such ends.

2. To act as a Centre for epidemiological and statistical analysis, including situational analysis and trend assessment for all countries in the Caribbean which are Members or which will be participating in, or cooperating with CAREC.

3. To assist, advise and cooperate with the Members on the attainment of the level of national epidemiological and laboratory capacity necessary for defining health sector priorities, designing effective interventions and evaluation performance, including the development and maintenance of effective surveillance and control measures for health problems of public health importance.

4. To provide reference and referral laboratory services in microbiology, immunology, and medical entomology, in support of national, CCH and regional programmes of disease surveillance and control, the range of services to be consistent with national needs and the recommendations for the Council of CAREC (the "Council")

(Page 2 of original agreement missing - to be inserted)

PART III - ????

1. An Annual Report shall be prepared by the Director of CAREC covering the period January 1 to December 31 of the previous year. The report shall be reviewed and distributed to members of the Scientific Advisory Committee (the "SAC"), the Council and the Members. The report shall include a review of the year's activities and a general plan of future activities.

2. The activities carried out by CAREC shall include, but not be limited to, the following:

(a) Health and Disease surveillance

(i) CAREC shall receive, analyse and distribute surveillance data, and shall develop, distribute and coordinate standard surveillance procedures;

(ii) surveillance activities shall be coordinated with the international surveillance programme of PAHO/WHO;

(iii) staff shall be available to provide prompt help and advice on disease prevention and control strategies;

(iv) staff shall make regular visits to advise on the development of national surveillance, laboratory operations, disease prevention and control;

(v) CAREC shall promote the capacity of its members to carry out relevant surveillance activities;

(vi) CAREC shall promote and coordinate the development and implement of the Caribbean Surveillance system.

(b) Health Situation Analysis and Trend Assessment

(i) CAREC shall provide technical assistance to the Members for the analysis of the health situation and trends of the population, and the use of the resulting information in health planning, policy development and programming process;

(ii) CAREC shall collaborate with the Members to strengthen the database utilised to analyse the health situation and trends of the population.

(c) Laboratory Services

(i) CAREC shall provide to the members selected laboratory diagnostic, and reference and referral services in support of the surveillance, prevention and control of important public health problems.

(ii) CAREC shall maintain up-to-date information concerning laboratory resources available to serve the Caribbean Region;

(iii) CAREC shall promote the development, and implementation of Caribbean regional laboratory guidelines and systems;

(iv) CAREC shall provide quality assurance programs to assure quality of testing in laboratories in Member countries;

(v) applied research, in collaboration with appropriate partners, shall be conducted into diseases of public health importance;

(vi) support shall be provided to outbreak investigations to confirm aetiology and monitor trends.

(d) Education and Training

(i) training courses in public health disciplines, including epidemiology, surveillance and laboratory procedures, shall be offered to professional and technical personnel working in the Caribbean Region;

(ii) the staff of CAREC shall assist participating agencies in orienting government personnel at the policy-making level and in planning for practical training on particular problems and programmes;

(iii) CAREC shall engage in mutual development and implementation of education programmes with the participating universities.

(e) Research

CAREC shall conduct studies to identify major health problems facing the Caribbean Region, determine the potential for their control and evaluate the impact of interventions.

(f) Publications

(i) CAREC shall publish regular reports on health problems in the Caribbean Region;

(ii) CAREC shall collect, print, publish and disseminate a variety of technical reports and educational materials on health in electronic and hard copy formats.

(g) General Management of CAREC

(i) CAREC shall strive to improve its service and relevance to members, practice prudent financial management, and have training and development policies that ensure staff competencies necessary to carry out its mission and programmes;

(ii) CAREC shall maintain personnel and financial records in keeping with PAHO/WHO's and CAREC's administrative rules and regulations and provide annual analyses of its general administrative status;

(iii) in light of changing health situation assessments of the Region, CAREC shall determine its actual and potential contribution to the identified priority health issues.

PART IV - ORGANISATION AND ADMINISTRATION

1. Legal Capacity

   CAREC shall have the capacity of a legal person to perform any legal act which may be appropriate for the execution of its functions, as laid down in this Agreement and as authorised by the Director of PAHO/WHO.

2. Administration

   (a) the Director of PAHO/WHO, in accordance with PAHO/WHO's rules and regulations, and in consultation with the Council, shall designate a Director who shall be the chief technical and administrative officer of CAREC, and who shall be responsible to the Director of PAHO/WHO and the Council through appropriate channels;

   (b) the Director of PAHO/WHO shall consult with the Members, as necessary, regarding the selection of CAREC'S Director. Such person shall be acceptable to the host government;

   (c) PAHO/WHO shall, on the recommendation of the Council, establish the policies and procedures governing the conditions of employment of CAREC staff.

3. The Council

   (a) Composition

   There shall be a Council composed of representatives from the following governments and organisations:

   (i) Governments:

   (a) the Minister of Health of the host Government, the Republic of Trinidad and Tobago, or his/her designate;

(b) five (5) representatives, other from the Republic of Trinidad and Tobago, who shall be designated by the COHSOD, to serve for three (3) year periods. Due consideration shall be given to regional representation, including the participation of the United Kingdom Overseas Territories, the Netherlands Antilles and Aruba.

(ii) Caribbean Organisations:

(a) The University of the West Indies, whose Vice-Chancellor or designate shall serve as Chairperson of the Council;

(b) the CHRC represented by its Chairperson or designate;

(c) The CARICOM Secretariat represented by the Secretary General or designate;

(b) Secretariat:

The Director of CARES shall be Secretary of the Council and may participate in the deliberations without vote;

(c) Meetings:

The Council shall usually meet annually and shall determine at each meeting the date for the next meeting. In the interim, the Chairperson of the Council shall be consulted by the Director of CAREC, or by another person designated by the Director of PAHO/WHO, on matters requiring attention before the next scheduled meeting. In agreement with the Director of PAHO/WHO, the Chairperson may convene a special meeting of the Council to deal with an emergency situation.

(d) Observer status:

Observer status may be granted on an ad hoc basis to any of the following entities, which may, at its own expense and with the concurrence of the Chairman of the Council and the Director of PAHO/WHO, participate in the deliberations of the Council, without vote:

(i) any government that is a Member of PAHO/WHO, not otherwise represented on the Council;

(ii) any agency contributing to the budget of CAREC;

(iii) any government that is a member of the World Health Orgainsation ("WHO")

(e) Functions

The Council shall:

(i) review the Annual Report and the progress made on the Council's recommendations and submit its comments to the Director of PAHO/WHO;

(ii) review the proposed programme and budget of CAREC, including the report of the SAC, and make recommendations to the Director of PAHO/WHO, for transmittal to the Members of CAREC and to the COHSOD;

(iii) review proposed modifications to or extension of the respective percentages for quota contributions for members, and submit its recommendations to the Director of PAHO/WHO, for transmittal to the members and to the COHSOD;

(iv) review policies concerning the future operation of CAREC, including provision for service to, and participation of, other governments and organistions, and the determination of circumstances in which fees may be charged;

(v) review amendments to statutory regulations for the management of CAREC's resources;

(vi) determine its terms of reference and rules of procedures as well as those of the SAC;

(vii) establish sub-committees and working groups, as may be necessary.

4. Scientific Advisory Committee

There shall be a SAC to advise the Director of PAHO/WHO through the Council on the scientific programme of CAREC.

(a) Composition:

The SAC shall be composed as follows:

(i) three (3) members designated by the University of the West Indies;

(ii) one (1) member designated by the University of Guyana;

(iii) one member designated by the University of Suriname;

(iv) four (4) members designated by the COHSOD. Due consideration shall be given to regional representation, including the participation of the British Dependent Territories, the Netherlands Antilles and Aruba;

(v) one (1) member designated by the Host Government, the Republic of Trinidad and Tobago;

(vi) one (1) member representing the Secretariat of CARICOM;

(vii) one (1) member designated by the CHRC.

(b) Election and Term:

(i) the Chairperson of the SAC shall be elected by the members thereof and shall serve for a maximum of four (4) years;

(ii) except when elected to be Chairperson, a member of the SAC shall not normally be designated for more than four (4) consecutive years;

(iii) any member of SAC wh has served for four (4) years may be granted an extension for one (1) more year as an observer, at the request and expense of the designating government or organisations.

(c) Meetings:

The SAC shall meet at least biennially, and may determine at each meeting the date for its next meeting. The Director of CAREC may, with the approval of the Director of PAHO/WHO, convent a special meeting of the SAC.

(d) Observer Status:

Observer status may be granted on an ad hoc basis to any of the following entities, which may, at its own expense and with the concurrence of the Chairman of the SAC and the Director of PAHO/WHO, participate in the deliberations of the SAC, without vote:

(i) any government that is a Member of PAHO/WHO, not otherwise represented on the SAC;

(ii) any agency contributing to the budget or collaborating in the programmes of CAREC;

(iii) any government that is a Member of WHO

(iv) specialists in epidemiology, laboratory or related public health disciplines.

PART V - FINANCIAL SUPPORT

The budget of CAREC as approved by the COHSOD shall consist of contributions from the Members as determined from time to time by the COHSOD, based on the following factors:

1. The Republic of Trinidad and Tobago contributes 55.04% of Member Government contributions. As new Member Governments join CAREC, the Republic of Trinidad and Tobago's share shall be reduces accordingly.
2. Other Member Governments shall contribute the remaining 44.96% as adjusted from time to time, based on the method of calculating assessments approved by the COHSOD.
3. As new members join CAREC, the budget will be increased according to assessments approved by the COHSOD.

To further the range and impact of its functions, CAREC shall mobilise financial resources and make use of cost-sharing and cost-recovery arrangements with its Member and other entities, such as non-Member countries, non-governmental organisations and private sector entities, to the extent that such activities are consistent with PAHO/WHO rules and regulations.

PART VI - FACILITIES, PRIVILEGES AND IMMUNITIES

1. Member Governments shall apply to PAHO/WHO and its officials assigned to CAREC the privileges and immunities provided for in the Convention on the Privileges and Immunities of the Specialised Agencies of the United nations approved by the General Council of the United Nations on 21 November 1947. These privileges and immunities shall also be extended mutatis mutandis to CAREC and to its personnel, funds, property and assets.

2. Members shall be responsible for dealing with any claim which may be brought by third parties against PAHO/WHO (either in its own name or in the name of CAREC) or CAREC, or their or its officials or other persons performing services on their or its

behalf under this Agreement, and shall hold harmless PAHO/WHO, and CAREC, their or its officials, and the above-mentioned persons in case of any claims or liabilities resulting from operations under this Agreement, except where it is agreed by Member Governments and PAHO/WHO or CAREC as the case may be, that such claims or liabilities arise from the gross negligence or wilful misconduct of such officials or other such persons.

3. Members shall insure or indemnify PAHO/WHO for civil liability under the laws of their respective countries in respect of vehicles provided under this Agreement by PAHO/WHO for so long as PAHO/WHO retains ownership thereof.

4. Each Member Government shall take all measures necessary to facilitate the entry into, residence in, and departure from the respective country of all persons having official business with CAREC, including officials, experts, and consultants of PAHO/WHO and of other international agencies concerned with the programme, technicians, and fellow or trainees accepted by CAREC to participate in courses, meetings, seminars, or other special studies, and other persons performing services on its behalf under this Agreement.

GENERAL PROVISIONS

1. This Agreement shall enter into force on 1 January 2001 after its signature by a majority of CAREC Members, including the Host Country, Trinidad and Tobago, and shall be valid through December 21, 2005.

2. This Agreement may be modified, in which event the Parties hereto shall consult each other concerning the modifications to be made, and such modifications shall become effective upon agreement reached and signed by all parties to this Agreement.

3. Subject to established policies, CAREC may cooperate with other governments not members of the COHSOD and organisations interested in the programmes of CAREC. Such other governments may apply for and become contributing Members of CAREC upon approval by the COHSOD and all other Members.

4. Acceptance of this Agreement by other contributing governments or organisations shall be expressed by means of a letter of acceptance including its respective assigned quota, addressed to the Director of PAHO/WHO.

5. Any dispute arising out of the application of interpretation of this Agreement shall be settled by negotiations or, if necessary, by arbitration in accordance with procedures to be agreed upon in writing and signed by the Parties to the dispute. The arbitral award shall contain a statement of the reasons on which it is based and shall be accepted by the Parties as the final adjudication of the dispute.

6. This Agreement shall be interpreted in light of its fundamental objective, which is to make it possible for CAREC to carry out its functions fully and efficiently and to attain its mission.

IN WITNESS WHEREOF the undersigned, being duly authorised, signed this Agreement in an equal number of copies in English, on the dates and places indicated below.

37 The Institute of International Relations.pmd 872 4/1/2003, 9:03 AM

Part Five

Foreign Policy Co-ordination

37 The Institute of International Relations.pmd 874 4/1/2003, 9:03 AM

37

THE INSTITUTE OF INTERNATIONAL RELATIONS

Decision-makers of the Caribbean Community did not envisage at any time that the Institute of International Relations (IIR) would be the vehicle for coordinating foreign policies of the Member States. However, the thought might have been entertained that by being a common venue for teaching and research in international relations, students of the Community would, over time, come to share common perspectives on international developments, particularly as these related to the Caribbean and Latin America and that this would constitute a sound basis for coordinated foreign policy initiatives in the future. Given, however, that the right of a state to determine and conduct its foreign policy is generally regarded as one of the most important attributes of sovereignty, the willingness on the part of Member States of the Community to compromise their autonomy of decision in the determination and conduct of foreign policy must be taken as an indication of their willingness and readiness to effect integration of national policies for the collective welfare.

The Institute of International Relations began as the product of a bilateral arrangement between the Government of Trinidad and Tobago and the Government of Switzerland in 1966. The programme of the Institute was established by the Graduate Institute of International Studies, Geneva, in collaboration with the University of the West Indies with which the Institute was affiliated as an autonomous institution. In 1972, the Governments of Barbados, Guyana, Jamaica and Trinidad and Tobago concluded an agreement for the management and financing of the Institute which assumed a regional character. Recently, Guyana withdrew from the regime and established its own Foreign Service Institute, thereby putting the future of the IIR as a regional institute in considerable doubt.

The objects of the Institute as set out in its constituent instrument are to undertake graduate teaching, research and study of international relations with particular emphasis on the Caribbean and Latin America and to enter upon activities, including the organisation of special programmes, courses and seminars and the provision of consultative assistance and research for Governments, organisations and agencies of the Region, intended to strengthen international relations and the understanding of this branch of learning. The courses offered at the Institute are designed to achieve a three-fold objective. Firstly, to train specialists in international relations for both the public and private sector; secondly, to provide an academic and general education in the field of international relations, and thirdly, to engage in relevant activities and provide

consultative assistance to regional governments and organisations. Regional languages are also accorded significance in the Institute's academic training and research programmes.

The management of the Institute is vested in the Board of Governors comprising the Vice Chancellor of the University who is the Chairman of the Board, the Principal and pro-Vice Chancellor of the St. Augustine Campus where the Institute is physically located, the Director of the Institute, one representative of the University nominated by the Vice Chancellor, the Director of the Graduate Institute of International Studies, Geneva; El Colegio de Mexico and the United Nations Institute for Training and Research (UNITAR), the Secretary General of the Caribbean Community, two representatives of the Government of Trinidad and Tobago, and one representative each of the Governments of Barbados, Guyana and Jamaica.

The general administration of the Institute is the responsibility of the Director who is subject to the direction and control of the Board. The Director is assisted by a Committee comprising the academic staff of the Institute and such academic staff of the University and representatives of the student body as the Committee may co-opt.

CONSTITUTION OF THE INSTITUTE OF INTERNATIONAL RELATIONS

WHEREAS the Institute of International Relations (hereinafter "the Institute") was established in 1966 in Trinidad and Tobago by an International Agreement between the Government of Trinidad and Tobago and the Swiss Confederation for the purposes of providing graduate teaching, research and study of international relations with particular emphasis on the Caribbean and Latin American regions;

In implementation of that Agreement, the Swiss Confederation entrusted the execution of its part of the project to the Graduate Institute of International Studies in Geneva;

The Graduate Institute of International Studies entered into an Agreement with the University of the West Indies (hereinafter "the University") in 1965 whereby the Institute became an affiliated institution of the University of the West Indies in 1966 and members of its staff were recognised or appointed as teachers of the University and its courses of study were accepted in fulfilment of the Diploma in International Relations and the Master of Science in International Relations awarded by the University;

The International Agreement ceased to have effect on 30th September 1972 and the agreement between the Graduate Institute of International Studies and the University ceased to have effect on 9th October 972;

The Government of Trinidad and Tobago, the Swiss Confederation, the Graduate Institute of International Studies and the University have agreed that the Institute shall be continued with independent and autonomous status and have further agreed upon the principles of organisation upon which the Institute shall be so continued;

The Government of Trinidad and Tobago and the Swiss Confederation have entered into a further International Agreement of 1972 in relation to the future activities of the Institute and the University has by Ordinance confirmed the affiliation of the Institute to the University;

It is desirable that there shall be formally set out a Constitution for the Institute in implementation of the agreed principles of organisation;

THE FOLLOWING ARTICLES shall continue the Constitution of the Institute of International Relations:-

Article 1
Status of the Institute

1. There shall be an Institute of International relations which shall be an independent and autonomous academic institute but shall be capable of being accepted by the University as an affiliated institution of the University.

2. The Institute shall have its headquarters at the University campus in Trinidad and Tobago.

Article II
Objects of the Institute

The objects of the Institute shall be to undertake graduate teaching, research and study of International Relations with particular emphasis on the Caribbean and Latin American regions and to enter upon activities (including the organisation of special programmes, courses and seminars and the provision of consultative assistance and research for the Governments of the regions and regional organisations and agencies) which are intended to strengthen International Relations and the understanding thereof in the community at large.

Article III
Administration

1. The government of the Institute shall be vested in a Board of the Institute which shall have such membership and functions as shall be prescribed by these Articles.

2. The general administration of the Institute shall rest with a director who shall be responsible to the Board for the proper discharge of his functions.

Article IV
Membership of the Board

1. The membership of the Board shall comprise the following persons:
   - (i) the Vice Chancellor of the University who shall be the Chairman of the Board;
   - (ii) two persons appointed by the Government of the Trinidad and Tobago;
   - (iii) one person appointed by the Government of each of Barbados, Guyana and Jamaica from the date of its agreement under Article v(d) to contribute to the finances of the Institute on a continuing basis;
   - (iv) the Secretary-General of the Commonweath Caribbean Regional Secretariat;
   - (vi) the Principal of the St. Augustine Campus if the University;

(vii) a representative of the University appointed by the Vice Cgacellor;

(viii) a representative of the Graduate Institute of International Studies in Geneva;

(ix) two persons appointed by the Board from among distinguished scholars from within or without the Caribbean region;

(x) not more than two representatives of the states, which contribute to the finances and operations of the Institute, but are not member states of the Caribbean Free trade Association, appointed by the Board;

(xi) the Director of the Institute.

2. Members of the Board specified in paragraph 1 (ii), (iii), (iv) and (vi) to (x) of this Article shall remain members for such period, not exceeding three years, as shall be designated by the appointing body but shall be eligible for re-appointment.

Article V
Functions of the Board

1. The Board of the Institute shall determine the general policies of the Institute and may give the Director general directions for the implementation of those policies.

2. Without prejudice to its general functions specified in paragraph 1 of this Article, the Board shall :-

(a) appoint the Director;

(b) receive and approve the Annual Report of the Director General which shall include a financial report;

(c) approve the estimates of expenditure and the audited accounts of the Institute;

(d) negotiate and conclude with the Governments of any countries within or without the Commonwealth Caribbean an agreement with respect to a contribution by the Government to the finances of the Institute;

(e) assist the Director in seeking the support and the resources necessary for the fulfilment of its objects.

3. The Board shall meet at least once a year and at such other times as the Chairman shall require and, in any case, not late than one month after the receipt by the Chairman of a written request from the Director or from any four members of the Board.

4. The Director shall attend all meetings of the Board.

5. Subject to these Articles, the Board shall regulate its own procedure.

Article VI
The Director of the Institute

1. There shall be a Director of the Institute who shall be appointed by the Board with the prior approval of the University from amongst persons having appropriate academic qualifications, regional standing and the moral and administrative qualities necessary for the fulfilment of his functions.

2. The functions of the Director shall include:-

(a) the control of the expenditure of the funds of the Institute within the approved estimates;

(b) the general administration of the Institute and its day to day management;

(c) the initiation and implementation of the general policies of the Institute as approved by the Board;

(d) the organisation of the teaching and research of the Institute;

(e) the organisation of special programmes and projects in furtherance of the objects of the Institute;

(f) ensuring that the agreed procedures are followed with respect to all matters within the joint competence of the Institute and the University;

(g) representation, either personally or by a nominee appointed by him, upon such Authorities, Boards or Communities of the University of the University as may be required or allowed by the University ;

(h) the making of such arrangements with the University as he may consider appriopriate to ensure that proper accommodation and the proper administration of the Institute and its funds;

(i) the direction and furtherance of the external relations of the Institute;

(j) the submission of an Annual Report tot he Board.

3. In the discharge of his functions, the Director shall be assisted by a Committee of the Institute which shall comprise all members of the academic staff of the Institute and such members of the academic staff of the University as the Committee may co-opt but the director shall remain responsible tot he Board for the discharge of his functions.

Article VII
Staff of the Institute

1. The Institute shall appoint such members of its academic staff and its non-academic staff as are necessary for the discharge of its functions in accordance with the estimates approved by the Board.

2. All appointments tot he academic staff of the Institute, other than the Director, shall be made by the Appointments Committee of the Institute which shall comprise the Vice Chancellor and the Principal of the St. Augustine Campus of the University, the Director, one member of the Board of the Institute, and one member of the academic staff of the Institute designated by the Board:

Provided that in the case of an appointment at the Professorial level, the Appointments Committee shall, before considering an appointment, receive a report from a Selection Board constituted in accordance with the Statutes of the University.

3. Details of every such appointment shall be transmitted tot he Appointments Committee of the University for consideration for recognition as a teacher of the University in accordance with the provisions of the Charter, the Statutes and the Ordinances of the University.

4. Members of the academic staff of the Institute shall hold their appointment on such terms and conditions of service as shall be determined by the Board, but such terms and conditions shall be as nearly similar to those from time to time in operation in relation to members of the Academic staff of the University holding comparable appointments as the circumstances of the Institute allow.

5. All appointments tot he non-academic staff of the Institute shall be made by the Director on behalf of the Board on similar terms and conditions services, and in accordance with a similar procedure, to those adopted from time to time by the University in relation to members of the non-academic staff of the University holding comparable appointments but the Board may at any time it sees fit determine different terms and conditions of service and adopt different procedures of appointment, provided that these shall not be less advantageous than those adopted by the University.

Article VIII
Finances

1. The revenue of the Institute shall be derived from: -

   (a) an annual contribution by the Government of Trinidad and Tobago;

   (b) such contributions as may be made by other Governments whether within or without the Caribbean region;

   (c) such grants as may be made from any source for the financing of special research or teaching projects or for scholarships;

   (d) such fees as may be determined from time to time by the Board of the University, as the case may be, as fees payable tot he Institute;

   (e) payments made to the Institute in consideration of consultancy services provided through the Institute;

   (f) payments from the sale of its publications.

2. The Director shall make proper arrangements which may be with the University, if the Board deems appropriate, for the government, management and regulation of its finances, accounts, investments, property, business and all its financial affairs whatsoever, and for that purpose the Board shall have power to appoint bankers and any officers or agents whom it may deem expedient to appoint.

3. The Director shall prepare annually for the approval of the Board estimates of expenditure for the next following financial year.

4. The Board shall cause to be kept proper books of account which shall be audited at least once a year by an auditor who shall be a qualified and independent accountant in the active practice of his profession appointed by the Board and shall cause to be prepared not later than three months after the end of each academic year:

   (i) a statement showing in detail the income and expenditure of the Institute for the immediately preceding academic year;

   (ii) a statement of the assets and liabilities of the Institute as they stood at the end of the immediately preceding academic year.

5. All statements specified in paragraph 4 of this Article shall be certified by the auditor appointed by the Board and as soon as may be thereafter a copy of each such

statement as audited shall be transmitted to all members of the Board for approval by the Board and to each Government contributing to the finances of the Institute, to the University and to the Graduate Institute of International Studies.

Article IX
Relations with the University

1. The Institute shall seek recognition by the University as an affiliated institution of the University but may accept only those terms and conditions of affiliation which are consistent with these Articles.

2. The Institute shall comply with the terms and conditions of affiliation which are from time to time so agreed with the University and laid down by Ordinance in pursuance of the Charter and the Statutes of the University.

3. Without prejudice to the generality of the foregoing paragraphs, any agreement with the University for affiliation may make provision for all or any of the following matters:-

(a) the membership of the Director and members of the academic staff of the Institute of any of the Authorities or Committees of the University;

(b) the conditions under which the Institute may engage in teaching undergraduate programmes in International Relations;

(c) the conditions and qualifications for admission of students to the Institute;

(d) the approval of courses and syllabuses taught by the Institute for any certificate, diploma, degree or other qualification to be awarded by the University;

(e) the appointment of examiners for, and the form and conduct of, examinations provided by the Institute for any certificate, diploma, degree or other qualification to be awarded by the University.

Article X
Procedure for Amendment of these Articles

1. These articles may be altered, amended, added to or revoked by the Board in accordance with the provisions of this Article.

2. Notice of a proposal to make any alteration, amendment, addition or revocation and the terms thereof shall be given to all members of the Board at least three weeks before the meeting at which the proposal is to be considered.

3. Subject to paragraph 4 of this Article, such a proposal shall become effective if not less than one-half plus one of the members of the Board in favour of such a proposal at a meeting at which three-quarters of the membership of the Board are present.

4. Any such alteration, amendment, addition or revocation which is inconsistent with the terms of the affiliation of the Institute to the University as set out in the Ordinance of the University regulating that affiliation shall not come into operation until a report is received by the Board that such alteration, amendment, addition or revocation has been considered and decided upon by the Council of the University.

Part Six

Conclusion

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PROSPECTS FOR CONSOLIDATION AND DEVELOPMENT

Having examined the CARICOM System in its present configuration and operation, one question suggesting itself for response is whether the existence of this corpus of regimes enhances the prospects of the Caribbean Community for consolidation, adaptation and structured development. It is also a matter of conjecture that, had the system existed in those critical years of the Federation, the political and institutional development of the Caribbean Community might have been different. Both of these propositions involve a measure of ineluctable subjectivism, are in the nature of hypothetical imperatives and are not easily amenable to empirical validation on the basis of incontrovertible evidence and a dispassionate, verifiable evaluation of factors. For one thing, the social imponderables and variables normally impacting on political and institutional development are infinitely extensible. For another, the imperatives of political integration informing collective determinations from 1958 to 1962 must be seen to be qualitatively different from the dictates of political intercourse and action at the present time. The internal environment of the disparate political entities of the Caribbean Community has undergone profound change of a nature and quality impossible to have been contemplated at the time of the demise of the federal experiment. Likewise, the external environment, determined by asymmetrical and inequitable developments in the international community, has been radically transformed in terms of structural and functional relationships which have impacted negatively and decisively on the ability of the economies of Member States of the Caribbean Community to be developed on a viable, structured and sustainable basis. Despite the foregoing, however, it does appear to be the subject of a reasonable inference that, given a disposition by competent decision-makers to utilise the various regimes of the CARICOM System constructively and in an integrated manner, the prospects of the Caribbean Community for consolidation and growth appear to be evenly balanced. The objectives and functions of many institutions comprising the CARICOM System exhibit a discernible tendency to complementarities, underscoring the window of opportunity to harness and exploit their potential for synergistic development.

The Federation collapsed primarily because its political and juridical architecture of the centre threatened the autonomy of decision of its principal constituents at the periphery. CARICOM has so far succeeded in evading a similar fate largely because it is expressed to be, and is, juridically, politically and functionally an association of sovereign States as exemplified in the unanimity rule which governs decision-making

at the highest level. But CARICOM, as it was originally conceptualised and configured, is undergoing far-reaching restructuring which, if effected, will transform it out of all recognition. Will CARICOM, transformed on the basis of a single economy and a unified market, achieve its stated objectives within political, juridical and functional parameters substantially unchanged from its institutional precursor? Undoubtedly, important modifications have been made to the procedures of decision-making allowing more pragmatic solutions and functional flexibility in various organs of the Community other than the Conference. However, the essential ingredients of the sovereign equality of States and autonomy of decision on economic and political issues of critical national concern, which appeared to have stymied significant progress on earlier attempts at integration, are largely unimpaired in the highest decision-making organ despite various determinations to reorder the rules of the game in terms of political accountability, establishing acceptable standards of governance and sanctioning politically deviant behaviour.

In retrospect, it appears that CARICOM has endured precisely because it was able to be all things to all the political leaders of the Commonwealth Caribbean. The federal structure of 1958 proved incapable of accommodating the political egocentricities and personal idiosyncracies of Caribbean leaders. Individualism and uncompromising insularity were the rocks on which the federal enterprise was foundered and was eventually destroyed. Federation appeared to have been an attractive option for several political leaders in the absence of plausible assurances that independence for individual political entities was on the cards. In other words, when the Colonial Office indicated that the political entities of the Caribbean could only aspire to independence within a framework of federation, Jamaica, Trinidad and Tobago and Barbados were all apparently enamoured of the idea. However, shortly after the commencement of the venture in political engineering, insular rivalries began to assert themselves. Jamaica's Norman Manley was disappointed with the choice of Port-of-Spain for the location of the Federal Capital and deferred to the claims of Grantley Adams to be the first Prime Minister of the West Indian Federation. There is a perception in some informed quarters that Manley's refusal to become Federal Prime Minister proved fatal to the Federation.

From the very outset, however, the configuration of events was not auspicious for the Federation. British Guiana had opted to remain outside these political arrangements together with The Bahamas and Belize, thereby depriving the Federation of a considerable natural and financial resource base. At the material time, Belize perceived itself as being more of a Central American than a Caribbean State. In both Jamaica and Trinidad and Tobago, the largest political entities, the Federal Labour Party did not win a majority of seats in the elections for the Federal Parliament. Opposition to the Adams administration in the Federal Parliament was persistent and virulent under Albert Gomes of Trinidad and Tobago, and his bLte noir, Robert Lightbourne, one of his Jamaican cohorts. Adams was contemptuously characterised as the yoyo of Norman Manley and Eric Williams, neither of whom was prepared to forego national representation for federal representation. From Williams' viewpoint, the Federation was too weak at the centre; from the perspective of Norman Manley, it was not weak enough. Predictably, both national leaders became disenchanted with developments at the centre and pulled the political rug from under the feet of their colleague, Grantley Adams. The Colonial Office in the person of Ian McLeod, was ready to lend a helping hand and Adams was allegedly offered a pension and a peerage if he stepped down to allow Norman Manley to take

over as Prime Minister of the Federation. When Grantley Adams declined, Manley became resolute in his determination to put the issue of Jamaica remaining in the Federation to a referendum. Opposition leader in Jamaica, Alexander Bustamante subsequently marvelled at the naivete of Norman Manley for taking this decision. Jamaica's participation in the Federation was already a fait accompli. He knew it was not a wise thing to do and he surmised what the outcome would be. Perhaps Norman Manley also suspected and was fortified in his conviction by an informal intimation from the Colonial Office that a 'no' for Federation was a 'yes' for Independence for Jamaica, presumably under him as Prime Minister, following new elections as a precondition.

The disintegration of the Federation demonstrated the extent to which this experiment in political engineering was no more than a marriage of convenience for the principal actors. For once Jamaica's independence was on the cards, it was clear to both Trinidad and Tobago and Barbados that independence was a viable option for them as well. Depressingly enough, Eric Williams refused to countenance continuation in the ill-fated experiment after Jamaica's withdrawal, and Barbados vehemently resisted Federation with the OECS. And this presented a window of opportunity for the advocates of economic integration, including Eric Williams, in the absence of a strong central administration. Dickenson Bay came in 1965 and gave way to CARIFTA in 1968 which was succeeded by Chaguaramas in 1973 and the birth of CARICOM. CARICOM endured initially because it was essentially a loose trading regime without strict disciplines and effective sanctions thereby allowing free rein for individualism and non-compliance with collective decisions when political expediency so advised. Consequently, implementation paralysis assumed a position of dominance in the economic integration effort and national autonomy was but little compromised.

Further, CARICOM as a loose political grouping, possessed other attributes that favoured its continuance. At the international plane, the voting power of its membership and the persuasive and informed eloquence of its representatives in multilateral fora ensured the grouping a measure of influence way beyond their political and economic significance. This circumstance was employed to good advantage in negotiations with the European Community to secure protective markets for traditional exports, non-reciprocal free trade arrangements and access to much aid, expressed in confidential circles to be compensation for centuries of economic exploitation and social injustice. More importantly, their strategic geopolitical significance ensured for the Member of States of CARICOM access to much donor assistance from North America in terms of grants and concessional loans. In point of fact, access to grants and concessional financing appeared to stand in diametrical relationship to political and economic vulnerability in a hemisphere under threat from socialist ideologies. But, as mentioned in Chapter One, all of this was to change with the collapse of Soviet imperium and the emergence of globalisation and liberalisation as the dominant imperatives of economic survival in the international community.

The question now requiring resolution is whether CARICOM can survive as a viable economic entity in the new global dispensation. Resolution of this issue will depend, in the final analysis, on the quality of leadership both at the regional and national plane. At the regional plane, the qualities required include a clear understanding of the functional prerequisites to respond effectively and in a timely manner to the demands of a single market and economy in an intensely competitive international environment.

In retrospect, it is not so difficult to appreciate why the Federation had to self-destruct. The agreed political framework was incapable of accommodating the egocentricities and idiosyncracies of the principal political actors and the Colonial Office offered a more viable option for such egocentric behaviour - independence. Several other factors conspired to ensure the failure of the federal experiment. The economies of the various entities were not sufficiently interdependent and depended more on trade with third countries than intra-regional trade thereby depriving the integration process of a cohesive, centripetal dimension; the lack of supportive infrastructure for intra-regional trade aggravated the situation and a mutually reinforcing system of institutional arrangements such as exist in CARICOM at present did not exist at the material time. There was no institution to offer initiatives in the area of economic integration. The UWI and CXC, the building blocks of a common social ethic, were in their incipient periods of development and the opportunities available to Caribbean nationals to opt out of the regional endeavour and to seek their fortunes afar were too many. There was no sustained external pressure for internal cohesion and internationally, the interested metropoles had more to gain from a body of sovereignties on whose support they could rely in Cold War international fora and they insidiously connived at political fragmentation. The critical question for CARICOM is whether these enabling conditions for centrifugalism and political fragmentation have changed.

An informed response to this question is likely to be in the affirmative although some fissiparous influences are disturbingly evident in the current dispensation. Firstly, CARICOM is politically and juridically an association of sovereign States thereby allowing for the co-existence of a variety of political egocentricities at the national plane without irretrievably damaging the regional fabric. In this new arrangement, there is an identity of political leaders from the centre and from the individual units - the regional political directorate was a composite of national political directorates. As such, the political disconnect between regional and national agendas, even though formidable, was not as pronounced as it was in the federal experience. The institutionalisation of meetings of Heads of Government, particularly in caucus where political candour appears to be the order of the day, provides an opportunity to ventilate grievances and deliberate on differences with a view to reaching mutually satisfactory solutions. In short, there is no threat from the centre to national agendas which cannot be neutralised and, ultimately, accommodated on the basis of consensus. Postulated in other terms, there is no real likelihood that policies from the centre could stymie individual initiatives at national development as occurred in the Federation. In effect, relations between the centre and the periphery are easy and the decision to scuttle the West Indian Commission's recommendation for a stronger centre through the establishment of a CARICOM Commission, which, incidentally, was never properly understood, is an indication of a preference for the status quo. In this context, it is worth emphasising that, contrary to popular perception, the West Indian Commission's proposal for a CARICOM Commission adroitly avoided the issue of supranationality.

More importantly, the factors making for cooperation and economic and social cohesion are more influential now than they were at the material time. The international environment in which the States of CARICOM are required to live today is fundamentally different from that of four decades ago. National economies are being forced to adjust in response to globalisation and liberalisation, allowing for a greater measure of complementarity among them. Thus, as several of the economies of the Caribbean

Community diversify out of the production of goods into the provision of services - tourism, financial services and knowledge-based industries, opportunities are being created for natural resource rich economies of the Region to provide products for regional consumption, admittedly in competition with third countries as the elimination of trade barriers intensifies. Externally, the GATT with its relatively weak disciplines, has given way to the WTO, which is essentially a rule-based organisation with strict disciplines and credible sanctions for enforcing compliance, especially in view of the implied commitment of the principal actors to employ the International Monetary Fund and the International Bank for Reconstruction and Development to support the sanctioning processes of prescription of the WTO. In this connection, the provisions of Article V of the WTO Agreement make interesting reading.

Internally, the Caribbean Community by attempting to transform itself into a single economic space will, hopefully, provide the basis for internationally competitive production of goods and provision of services. What is required for success in this economic integration initiative is a body of disciplines and credible enforcement and supportive mechanisms to ensure that factors are free to migrate to areas of the Community where they can be efficiently employed and that the outcome of their utilisation is capable of satisfying local demand for goods and services and competing internationally with similar or substitute products. In this connection, the required infrastructure for technology transfer and for the promotion of foreign direct investment will have to be addressed as a matter of priority. Indeed, the disciplines of the WTO are coercing Member States to accord the required protection for intellectual property rights which provide the basis for technology transfers. Modifications to the applicable multilateral regime are expressed to be desirable and necessary to accommodate the legitimate interests of developing countries but this should not be allowed to retard putting in place the legal and administrative infrastructure which would encourage third country enterprises of the North and even the South to relocate in the Community. Of equal importance, competent decision-makers will have to ensure that the disciplines underpinning the CSME are adequate for the purpose at hand. This would require, above all, institutional arrangements to interpret, apply and enforce the applicable norms. In this context, Institutions like the Caribbean Regional Organisation for Standards and Quality (CROSQ), the Regional Competition Commission and the Caribbean Court of Justice (CCJ) tend to assume inordinate significance in the new dispensation. Other institutions facilitative of the movement of skills, like those addressing accreditation and certification are also important, as well as the educational institutions responsible for producing the skills. However, critical for the success of current initiatives of economic integration are convergent economic, fiscal and financial policies, in the absence of which the efficient exploitation of factors would continue to be an elusive desideratum.

In all of this, the CARICOM Secretariat has a critical role to play in monitoring the development of the CSME, facilitating the provision of the soft infrastructure and institutional arrangements perceived to be required to make the system work; providing advice and guidance to both regional and national administrations concerning the disciplines to be established and observed and the most effective way of ensuring compliance with obligations assumed in and under the Treaty; and assisting in the invocation and application of sanctions as appropriate. The Secretariat also has the role of promoting the dissemination of information on available opportunities in the CSME

and facilitating the day-to-day interface of nationals of the Community especially for the purpose of providing skilled and professional services as independent contractors or non-wage earning service providers. Most importantly, the CARICOM Secretariat must be seen to have an extremely important role in operationalising the CSME by ensuring certain critically important institutional arrangements are in place, for example, the Regional Competition Commission, the CARICOM Regional Organisation for Standards and Quality; and the Caribbean Court of Justice without which the establishment of the CSME is doomed to be an optical illusion. The Secretariat will also be required to play an important role in informal and formal disputes settlement and in providing informed, persuasive and generally accepted opinions on the interpretation and application of the Revised Treaty. Equally important is the role of the Secretariat in assisting Member States in identifying and setting the priorities of areas of the law appropriate for harmonisation or unification and in promoting and facilitating the drafting of model legislation and its implementation.

The enhanced role perceived to be required for the Secretariat, if the CSME is to become a reality, makes imperative the enlargement of its human resources complement and the willingness of competent decision-makers to make available funds adequate for the purpose. The Secretary-General needs to be less self-effacing and more aggressive in espousing the claim for the enhanced human and financial resources seen to be required. Last, but not least, the Secretariat must set the priorities of its activities realistically, by reference to the areas accorded primary importance on the regional agenda. This might require de-emphasising various woolly areas of endeavour incapable of precise measurement and evaluation but which have a high regional profile and significant propaganda appeal and focus on the basic requirements of a successful integration initiative. In this context, too much importance cannot be accorded to securing convergent economic fiscal and financial policies in the Community and the establishment of a single currency in the absence of which a genuine single economy is condemned to be a mere pipe dream. A modest but important initiative in this direction would be to make compliance with agreed convergence criteria a sanctionable requirement in order to inject the desired measure of discipline into national and regional economic planning. Finally, the CARICOM Secretariat must take the lead in exploiting the synergies of the CARICOM system by considering the relevant institutions as components of a whole, ensuring that their activities are complementary and mutually self-supporting and leaving to institutions of the system, the powers and functions which each can efficiently discharge. To achieve this, institutions of the CARICOM System will need to meet regularly to co-ordinate their activities.

For example, consideration might be given to enlarging the remit of CEHI expressly and definitively to encompass sustainable development issues and allow the Caribbean Foundation for Art and Culture to organise regional events like CARIFESTA and relieve the Secretariat of its responsibilities in these areas. Similarly, consideration could be given to relieving the Secretariat of implementation issues and enlarging the remit of CARICAD to include them. Consideration might also be given to maintaining only an agricultural desk in the Secretariat to in order to organise activities in the sector, leaving national personnel and institutions which are familiar with local conditions with responsibility for forward planning and implementation of regional decisions. Savings effected here can be applied to maintaining REPAHA, an institution which has provided and continues to provide sterling service to the Member States of the Community.

CARDI may be made to focus more on development and the commercial exploitation of scientific discoveries. In the area of fisheries, the newly established CARICOM Fisheries Mechanism, successor to the CARICOM Fisheries Resource Management Project, may be charged with responsibility for policy formulation and implementation of relevant decisions.

There is a persuasive argument for the Secretariat to focus primarily on putting the CSME into operation and pursuing initiatives perceived to be required for its structured development. In this connection, economic convergence issues are prime candidates for consideration. It has been pertinently observed that the Committee of Central Bank Governors is not well placed to deliberate and pronounce on issues where the ultimate objective is the establishment of a single currency and the erosion of the influence of national central banks. Since assuming the responsibility for establishing a monetary union, the Governors have made steady progress in backing away from their stated objectives. Operationalising the CSME requires the pursuit of measures constituting a formidable challenge which the current resources of the Secretariat are inadequate to undertake. These include establishing, monitoring and servicing the Regional Competition Commission whose operations are to be seen as critical for the efficient operation of the CSME; identifying, prioritising, promoting and facilitating the harmonisation of laws to ensure that the legal infrastructure of the CSME is investor friendly and adequate for the task at hand; causing to be put in place mechanisms for the recognition of diplomas and other evidence of qualifications in order to facilitate the movement of skilled nationals in the CSME; promoting and facilitating the enactment of legislation and implementing regulations to give various provisions of the Treaty the force of law in national jurisdictions, including the enactment of legislation appertaining to so-called contingent rights; and undertaking in Member States a massive public education programme to familiarise bureaucrats with their obligations in the new dispensation and Community nationals of their rights. It is anticipated that as institutions within the System meet at regular intervals and their representatives interface with one another, other areas of cooperation would be identified and developed, thereby promoting optimum utilisation of scarce regional resources. Initiatives in the areas identified are not presumed to be exhaustive but are merely indicative and suggestive of the need of the Secretariat to focus on activities designed to facilitate efficient delivery of services in areas perceived to promote the objectives of the Community. Currently, the Secretariat's remit is very wide and tends to be augmented with every meeting of competent organs and the Secretariat itself is not entirely blameless for this circumstance. The Secretariat also needs to respect the relevant provisions of the Treaty which seek to ensure that competent decision-makers are informed in good time about the financial implications of their determinations to ensure some meaningful correspondence between mandate prescription and affordability.

The political directorate also has a responsibility and duty to do what is required to make the Caribbean Community, which is located at the centre of the CARICOM System, and its supporting institutions operate as a functionally coherent and mutually reinforcing body of autonomous entities. This would require, above all, providing all parts of the System with the resources, human and financial, to make them productive and efficient in terms of achieving stated objectives. In this context, consideration should be given to a bold, dispassionate review and assessment of all parts of the System to determine and reallocate various functions and terminate, as required,

institutions found to be dysfunctional or no longer relevant in the emerging world order. Above all, the political directorate will be required to re-evaluate their attitude towards the extremely sensitive issues of supra-nationality and implementation which appear to be two peas in the same pod.

Implementation involves getting competent decision-makers at the level of the political directorate, their principal advisors, public servants throughout the national bureaucracy, persons in the private sector and civil society on whom the relevant determination is expected to impact, to understand and respond positively to the particular discipline sought to be imposed. More often than not, all of these persons have to be educated about the particular measure employed in order to appreciate its importance for the structural development of the Community. To achieve the goals of public education, scarce resources, both human and financial, are required at the centre and the periphery. Where such resources are available, initiatives in the area of public education have to be elaborated, conducted and coordinated to allow for their efficient and effective employment. In this regard, the system of consultations envisaged in the Revised Treaty assumes inordinate importance. In the absence of a comprehensive and effective system of national consultations, public education about various determinations reached at the regional plane becomes intractable, with probable negative consequences for the success of the relevant initiative. Where the private sector is likely to be adversely affected in the short or medium term by regional determinations, the focus of public education initiatives must be on the long term advantages of compliance, the availability of options to adjust to the disciplines involved, including viable avenues for the beneficial employment of dislocated resources. Available opportunities should be grasped to bring interested non-governmental organisations on board, given their access to resources and commendable record of achievement in the area of compliance.

A voluntary surrender of sovereignty will require, as a first step, unqualified acceptance of the fact that as fragile open economies with limited options for sustainable economic development as autonomous entities, Member States of the Community are required to pool their sovereignties in order to achieve, collectively, the required capabilities to effectively discharge various state functions which, individually, are beyond their reach. If this requires a surrender of sovereignty, competent decision-makers must be bold and responsible enough to 'bite the bullet', bearing in mind at all times that the essence of sovereignty in the final analysis is the faculty to compromise it.

Indeed, Member States have already compromised their autonomy of decisions in several institutions of the CARICOM System either knowingly or unwittingly and have come out as the primary beneficiaries. Cases in point are the Eastern Caribbean Central Bank, the Council of Legal Education and the Caribbean Examinations Council. The crisis of decision occurs in connection with the Caribbean Community which is central to the System and where, in the present submission, compromises of sovereign competence are most critically and urgently required to energise the functioning of this organisation and ensure its effective and efficient delivery of the services generally agreed to be desired and required for the operation of the CARICOM Single Market and Economy.

In the characterisation of the West Indian Commission, the time for action has come and the political directorate of the Caribbean Community must respond decisively and with a sense of urgency.