

7. Inspection Criteria (including Inspection at Origin): designated agencies shall be the only channel for inspections between Parties, and shall be authorized to determine inspection periods, time limits for informing the other Party, as well as for the signature of protocols or specific bilateral instruments according to the needs of the Parties.

Upon receipt of a request from one of the Parties, the Competent Notifying Authority shall be required to conduct the inspection, and report the findings and action taken to the other Party within 30 days.

When inspection is performed at a specific export point in the territory of a Party, the Certificate of Inspection will have a one-year validity, save for reasonable exceptions, particularly in the case of plants, by mutual agreement. Inspection costs will be borne by the exporting country.

8. Pest or Disease Free Areas and Areas of Low Prevalence of Pest or Disease in the process towards recognizing pest or disease free areas and areas of low prevalence of pest or disease, the Parties shall first apply the methodologies utilized by relevant international organizations and, where such methodologies do not exist, those harmonized at the regional level with the assistance of specialized regional organizations. The Parties shall also establish specific bilateral protocols for particular cases.

9. Accreditation: The Parties shall seek to standardize their accreditation procedures. Government institutions shall be recognized as accredited organizations and should select qualified and/or experienced personnel. Private sector institutions and professionals shall be appropriately certified.

ANNEX II

AGREEMENT ON TRADE IN SERVICE

ARTICLE I

Objective

The objective of this Agreement is to establish a framework for the liberalisation of trade in services among the Parties consistent with the General Agreement on Trade in Services (GATS) of the

World Trade Organisation (WTO). Such a framework will promote the interests of the Parties, on the basis of mutual advantages and the achievement of a global balance of rights and obligations among the Parties.

ARTICLE II

Definitions

For the purposes of the present Agreement:

- (i) commercial presence: means any type of business or professional establishment, including through the constitution, acquisition or maintenance of a juridical person, or creation or maintenance of a branch or a representative office located in the territory of any of the Parties, for the purpose of supplying a service;
- (ii) juridical person of another Party: means any juridical person:
 - (a) constituted or otherwise organised under the law of that other Party, and is engaged in substantive business operations in the territory of that Party or the other Party; or
 - (b) in the case of the supply of a service through commercial presence owned or controlled by:
 - (i) natural persons of that Party; or
 - (ii) juridical persons of that other Party, identified under sub-paragraph (a);
- (iii) natural person of another Party: means a national of that other Party;
- (iv) service consumer: means any person that receives or uses a service;
- (v) service of another Party: means a service provided:
 - (a) from or in the territory of such Party; or
 - (b) by a service supplier of that other Party by means of commercial presence or through the presence of natural persons;
- (vi) service supplier: means any person that supplies a service;
- (vii) services: includes any service in any sector except services supplied in the exercise of governmental authority;

- (viii) services supplied in the exercise of governmental authority: means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers;
- (ix) specialty air services: means aerial mapping, aerial surveying, aerial photography, forest fire management, fire fighting, aerial advertising, glider towing, parachute jumping, aerial construction, helilogging, aerial sightseeing, flight training, aerial inspection and surveillance, and aerial spraying services;
- (x) supply of a service: includes the production, distribution, marketing, sale and delivery of a service;
- (xi) trade in services: means the supply of a service:
 - (a) from the territory of one Party into the territory of the other Party;
 - (b) in the territory of one Party to the service consumer of the other Party;
 - (c) by a service supplier of any Party, through commercial presence in the territory of the other Party; by a service supplier of one Party, through the presence of natural persons of a Party in the territory of the other Party.

Any other term not defined in paragraph 1 of this Article shall have the meaning agreed to in the GATS and its Annexes.

ARTICLE III

Scope

This Agreement applies to measures by the Parties affecting trade in services, including those relating to:

- (i) the production, distribution, marketing, sale and delivery of a service;
- (ii) the purchase, use or payment of a service;
- (iii) access to and use of, in connection with the supply of a service, services which are required to be offered to the public generally;
- (iv) the presence, including the commercial presence of a service supplier in the territory of another Party; and
- (v) the provision of a bond or other form of financial security, as a condition for the provision of a service.

2. This Agreement will not apply to:

- (i) promotion and support measures provided by a Party or a state enterprise, including government-supported loans, guarantees, insurance, grants and fiscal incentives provided by the Governments of the Parties;
- (ii) air services, including domestic and international air transportation services, whether scheduled or non-scheduled, and related services in support of air services other than:
 - (a) aircraft repair and maintenance services during which an aircraft is withdrawn from service;
 - (b) specialty air services; and
 - (c) computerised reservation systems;
- (iii) services or government functions such as, but not limited to, the enforcement of laws, social welfare services, income security or insurance, social security, public education, public training, health, and child care.

3. Nothing in this Agreement shall be construed to:

- (i) impose any obligation on a Party with respect to a national of the other Party seeking access to its employment market, or employed on a permanent basis in its territory, or to confer any right on that national with respect to that access or employment; or
- (ii) impose any obligation nor confer any right to a Party, with respect to government procurement by the other Party, except for any provisions which may be agreed to on Government Procurement.

4. For the purposes of this Agreement “measures adopted by the Parties” means any measure by a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form taken by:

- (i) central, regional, provincial, municipal or local government and authorities; and
- (ii) non-governmental bodies in the exercise of powers delegated by government and authorities mentioned in sub-paragraph (i) above.

5. In fulfilling its obligations and commitments under this Agreement, each Party shall take such reasonable measures as may be available to it to ensure its observance by regional and local governments and authorities mentioned in paragraph 4(a) above, and non-governmental bodies within its territory.

6. The provisions of this Agreement will not apply to those measures related to professional services, except as may be agreed to by the Parties.

ARTICLE IV

Most Favoured Nation Treatment

Each Party shall accord immediately and unconditionally to services and service suppliers of the other Party treatment no less favourable than that which it accords to like services and service suppliers of any third country.

The provisions of this Agreement shall not be construed to prevent any Party from conferring or according advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zones of services that are both locally produced and consumed.

ARTICLE V

Transparency

Each Party shall publish promptly and, except in emergency situations, at the latest by the time of their entry into force, all relevant measures of general application which pertain to/or affect the operation of this Agreement. International agreements pertaining to or affecting trade in services to which a Party is signatory shall also be published.

2. Where publication as referred to in paragraph 1 is not feasible or practicable, the Parties shall make them otherwise publicly available.

3. Each Party shall promptly and at least annually inform the other Party of the introduction of any new or any changes to existing laws, regulations or administrative guidelines which significantly affect trade in services covered by this Agreement.

4. Each Party shall respond promptly to all requests by the other Party for specific information on any of its measures of general application or international agreements within the meaning of paragraph 1.

5. For the purposes of complying with this Article, the Parties shall utilise the enquiry points established under Article III:4 of the GATS.

ARTICLE VI

Disclosure of Confidential Information

Nothing in this Agreement shall require any Party to provide confidential information, the disclosure of which would impede law enforcement or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private.

ARTICLE VII

Licensing and Certification

With a view to ensuring that any measure adopted or maintained by a Party relating to domestic regulation of services sectors within the context of Article VI of the GATS or the licensing or certification of nationals of the other Party does not constitute an unnecessary barrier to trade, each Party shall endeavour to ensure that any such measure—

- (i) is based on objective and transparent criteria, such as competence and the ability to supply a service;
- (ii) is not more burdensome than necessary to ensure the quality of a service; and
- (iii) does not constitute a disguised restriction on the supply of a service.

ARTICLE VIII

General Exception

Notwithstanding the provisions of this Agreement, the Parties may adopt or enforce measures:

- (i) necessary to protect public morals or to maintain public order;
- (ii) necessary to protect human life, animal or plant life or health, and to preserve the environment;

- (iii) necessary to protect essential security interests;
- (iv) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:
 - (a) the prevention of deception and fraudulent practices or to deal with the effects of a default on services contracts by natural or juridical persons of any of the Parties;
 - (b) 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; or
 - (c) safety;
- (v) necessary to protect national artistic, historical or archeological treasures;
- (vi) for prudential reasons, such as to:
 - (a) protect investors, depositors, financial market participants, policy holders, policy claimants or persons to whom a fiduciary duty is owed by a financial institution; and
 - (b) maintain the safety, soundness, integrity or financial responsibility of financial institutions;
- (vii) inconsistent with the provisions of the Attachment mentioned in Article XII, provided that the difference in treatment is aimed at ensuring the equitable or effective imposition or collection of direct taxes in respect of services or service suppliers of the other Party; and
- (viii) inconsistent with Article IV, provided that the difference in treatment is the result of an agreement on the avoidance of double taxation or provisions on the avoidance of double taxation in any other international agreement or arrangement by which the Party is bound.

Such measures can be applied subject to the requirement that they do not constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade in services.

ARTICLE IX

Restriction to Safeguard The Balance of Payments

In the event of serious balance of payments and external financial difficulties or threat thereof, a Party may adopt or maintain restrictions on trade in services with respect to the measures covered by the provisions in Articles IV, X and XIII and paragraph 1 of Article XIV, including payment or transfers for transactions related to sectors covered by such measures. It is recognised that particular pressures on the balance of payments of a Party in the process of economic development or economic transition may necessitate the use of restrictions to ensure, *inter alia*, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development or economic transition.

2. The restrictions referred to in paragraph 1:

- (i) shall not discriminate among the Parties;
- (ii) shall be consistent with the Articles of Agreement of the International Monetary Fund (IMF);
- (iii) shall avoid unnecessary damage to the commercial, economic and financial interests of the other Party;
- (iv) shall not exceed those necessary to deal with the circumstances described in paragraph 1; and
- (v) shall be temporary and be phased out progressively as the situation specified in paragraph 1 improves.

3. In determining the incidence of such restrictions, the Parties may give priority to the supply of services which are more essential to their economic or development programmes. However, such restrictions shall not be adopted or maintained for the purpose of protecting a particular service sector.

4. Any restrictions adopted or maintained under paragraph 1, or any changes therein, shall be promptly notified to the other Party.

5. (i) A Party applying the provisions of this Article shall consult promptly on the restrictions adopted under this Article.
- (ii) The Committee on Trade in Services shall establish procedures for periodic consultations with the objective of enabling such recommendations to be made to the other Party as it may deem appropriate.

- (iii) Such consultations shall assess the balance of payments situation of the Party concerned and the restrictions adopted or maintained under this Article, taking into account *inter alia* such factors as:
 - (a) the nature and extent of the balance of payments and the external financial difficulties;
 - (b) the external, economic and trading environment of the consulting Party; and
 - (c) alternative corrective measures which may be available.
- (iv) The consultations shall address the compliance of any restrictions with paragraph 2, in particular the progressive phase-out of restrictions in accordance with paragraph 2(v); and
- (v) In such consultations, all statistical findings and other facts presented by the IMF relating to foreign exchange, monetary reserves and balance of payments, shall be accepted and conclusions shall be based on the assessment by the IMF of the balance of payments and the external financial situation of the consulting Party.

ARTICLE X

Local Presence

No Party may require a service supplier of the other Party to establish or maintain a representative office or any form of enterprise, or to be resident, in its territory as a condition for the provision of a service.

ARTICLE XI

Non-Discriminatory Quantitative Restrictions

No later than six (6) months after the date of entry into force of this Agreement, each Party shall set out in an Appendix to this Agreement, a list of existing non-discriminatory quantitative restrictions.

2. The Parties shall periodically, but in any event at least every two (2) years, endeavour to negotiate the liberalisation or removal of:

- (i) existing non-discriminatory quantitative restrictions maintained by each Party, as listed pursuant to paragraph 1; and
- (ii) new non-discriminatory quantitative restrictions that the Parties adopted after the entry into force of this Agreement.

3. Each Party shall notify the other Party of any new non-discriminatory quantitative restriction that it adopts after the date of entry into force of this Agreement.

ARTICLE XII

Market Access

The terms on which each Party will grant market access to service providers of the other Party shall be set out in an Attachment to this Agreement.

ARTICLE XIII

National Treatment

With respect to services covered by this Agreement, the Parties will grant each other national treatment subject to the terms and conditions in the Attachment provided for in Article XII.

ARTICLE XIV

Non-Conforming Measures

After the date of entry into force of this Agreement, no Party shall increase the level of non-conformity of its existing measures with respect to the provisions of Articles IV, X and XIII. Any new measures and reform to existing measures shall not decrease the degree of conformity of the measure with respect to its level immediately before its introduction or reform.

2. Articles IV, X and XIII do not apply to any existing non-conforming measure maintained by a Party as set out in an Appendix to this Agreement no later than six (6) months after the date of entry into force of this Agreement.

3. The LDCs shall list existing non-conforming measures within one (1) year of the entry into force of this Agreement.

ARTICLE XV

Denial of Benefits

A Party may deny the benefits of this Agreement to a service provider of the other Party, with prior notification and consultation, where the first Party establishes that the service is being provided by an enterprise that is owned by persons of a third country and that conducts no substantial business activities in the territory of the second Party.

2. Such notification shall also be made to the Committee on Trade in Services. The resulting consultations shall be conducted within the Committee and shall be concluded within fourteen (14) days of the notification.

3. In the event that the consultations do not result in an agreement acceptable to the Parties, the benefits may be denied provisionally and the affected Party may seek to resolve the matter in accordance with the provisions of Article XV of the Agreement establishing the Free Trade Area between the Caribbean Community and the Dominican Republic (Agreement on Free Trade).

ARTICLE XVI

Monopoly and Exclusive Service Suppliers

Each Party shall ensure that any monopoly supplier of a service in its territory does not in the supply of the monopoly service in the relevant market act in a manner inconsistent with that Party's obligations under Articles IV, X and XIII.

2. Where a Party's monopoly supplier competes, either directly or through an affiliated company, in the supply of a service outside the scope of its monopoly rights and which is related to those sectors covered under this Agreement, the Party shall ensure that such a supplier does not abuse its monopoly position to act in its territory in a manner inconsistent with such commitments.

3. The Committee on Trade in Services may, at the request of a Party which has a reason to believe that a monopoly supplier of a service of the other Party is acting in a manner inconsistent with the provisions of paragraphs 1 or 2, request the Party establishing, maintaining or authorising such supplier to provide specific information concerning the relevant operations.

4. The provisions of this Article shall also apply to cases of exclusive service suppliers where a Party formally or in effect:

(i) authorises or establishes a small number of service suppliers; and

(ii) substantially prevents competition among those suppliers in its territory.

ARTICLE XVII

Anti-Competitive Business Practices

The Parties recognise that certain business practices of service suppliers other than those falling under Article XVI, may restrain competition and hereby restrict trade in services.

2. With respect to these business practices, in particular those anti-competitive business practices that may unfavourably affect competition and/or trade between and within Parties, the Parties shall apply the provisions on competition policy that may be in force or enter into force at the national level after the entry into force of this Agreement, as well as provisions that may be established in international agreements on competition policy.

3. Either Party shall, at the request of the other Party, enter into consultations with a view to eliminating practices referred to in paragraph 1. The Party addressed shall accord full and sympathetic consideration to such a request and shall co-operate through the supply of publicly available information on the application of domestic law relating to the matter in question.

ARTICLE XVIII

Future Liberalisation

The Parties shall deepen the degree of liberalisation reached for trade in services, through future negotiations to be convened by the Council, with a view to eliminating any remaining restrictions set out in the Appendices, pursuant to Article XI and paragraph 2 of Article XIV.

ARTICLE XIX

Dispute Settlement

Any dispute that may arise under this Agreement shall be resolved pursuant to Article XV of the Agreement on Free Trade.

ARTICLE XX

Relationship with the General Agreement on Trade in Services (GATS)

Regarding matters not covered in this Agreement, the Parties agree to apply between themselves the provisions contained in the GATS

ANNEX III

AGREEMENT ON RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS

The Caribbean Community (CARICOM) and the Dominican Republic, "the Parties":

Interested in promoting greater economic co-operation amongst themselves, above all in the field of investments made by natural and juridical persons of one Party in the territory of the other Party;

Recognising the need to stimulate and protect investments in a manner that will promote economic growth and development of both Parties;

Recognising that the strengthening of economic ties can contribute to the well-being of workers in both Parties and promote respect for workers' rights;

Agreeing that these objectives can be achieved without relaxing health, safety and environmental measures of general application;

Acknowledging the importance of respect for the sovereignty and laws of the Party within whose territory the investment takes place;

Resolved to conclude this Agreement on Reciprocal Promotion and Protection of Investments.