

AGREEMENT ON TRADE IN GOODS

ARTICLE I

Coverage

The Parties agree that the conditions under which goods covered by this Agreement will be traded in the Free Trade Area are set out in this Annex.

ARTICLE II

Definitions

Except as provided herein, words and phrases shall have the meaning ascribed to them in the relevant Agreements of the WTO.

Competent Authority—The authority which, in conformity with the legislation of the Parties, is responsible for the administration of their customs tariff laws and regulations.

Customs Tariff—Any tariff, tax or duty levied on imports and of any type applied to the importation of goods, including any form of surcharge or additional charge on imports, except any equivalent charge or internal tax established in conformity with Article III.2 of the GATT 1994. This definition of a customs tariff does not include taxes or duties of lighterage, wharfage, storage and handling of merchandise, nor any others as may be required for port, custody or transport services; nor does it include exchange rate differences or other measures adopted by any Party.

Duties—Customs duties and any other charges of equivalent effect which are discriminatory in their application, whether fiscal, monetary, or of any kind, which are applied to Imports. Rates and analogous charges where they represent the cost of the services rendered are not included in this concept of “duties”.

Goods—Any materials or finished articles.

Identical Goods—Goods whose characteristics all coincide with those of the good it is compared.

Indirect Material—A good used in the production, verification or inspection of a good, but which is not physically incorporated into the latter; or a good used in the maintenance of buildings or the operation of equipment related to the production of a good.

ARTICLE III

Market Access

The Parties agree to promote a programme of trade liberalisation between them, at the same time taking into account, in particular, the differences in the levels of development between the Dominican Republic and the LDCs of CARICOM.

2. Each Party agrees to grant goods produced in the territory of the other Party access to its market under the following arrangements:

(i) the goods originating in Member States of CARICOM which satisfy the conditions contained in the Rules of Origin that appear as Appendix I to this Annex shall receive the following treatment on entry into the market of the Dominican Republic:

(a) duty-free access for all goods other than those set out in Appendices II and III;

(b) phased reduction of the Most Favoured Nation (MFN) rate of duty on goods as set out in Appendix II;

(c) the application of the MFN rate of duty to those goods as set out in Appendix III;

(ii) the goods originating in the Dominican Republic which satisfy the conditions contained in the Rules of Origin shall receive the following treatment on entry into the markets of CARICOM Member States:

(a) duty-free access for all goods other than those set out in Appendices IV and V on entry into the markets of the MDCs;

(b) phased reduction of the MFN rate of duty on goods as set out in Appendix IV on entry into the markets of the MDCs;

(c) application of the MFN rate of duty on those goods set out in Appendix V on entry into the markets of the MDCs;

(d) application of the MFN rate of duty on all goods on entry into the markets of the LDCs.

3. The Lists of goods will be reciprocal unless the Parties agree otherwise.

4. The LDCs shall not be required to extend the treatment provided for in paragraph 2(ii)(a) and (b) to products originating in the Dominican Republic on entry into their territories up to 2005. A review of the provisions of this paragraph will be undertaken by the Parties in 2004.

5. The Parties agree that they will not apply any quantitative restrictions with respect to the trade under this Agreement, always taking into account the obligations that the CARICOM Member States have under the Treaty Establishing the Caribbean Community. In this context, the Parties agree that any products affected will be placed on the MFN List pending any specific arrangements which might be negotiated.

6. The Council may consider any request by the Parties for the modification of the Lists at Appendices II to V.

7. The Parties agree that CARICOM entrepreneurs, both natural and legal persons, shall, in the Dominican Republic, be allowed to promote or to manage the import, sale, rent or any other form of traffic or sale of merchandise or products of CARICOM origin, either as agents, representatives, commission agents, exclusive distributors, licensees or under any other nomenclature, on the same basis as nationals of the Dominican Republic.

ARTICLE IV

Rules of Origin

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

ARTICLE V

Technical Barriers to Trade

The Parties agree to apply the provisions of Appendix VI on Technical Barriers to Trade.

ARTICLE VI

Sanitary and Phyto-Sanitary Measures

The Parties agree to apply the provisions of Appendix VII on Sanitary and Phyto-Sanitary Measures.

ARTICLE VII

General Exceptions

Nothing in this Agreement shall prevent the adoption or enforcement by the Dominican Republic or any Member State of CARICOM of measures:

- (i) which are necessary—
 - (a) to protect public morals;
 - (b) to prevent crime or the maintenance of public order;
 - (c) to protect its essential security interests;
 - (d) to protect human, animal and plant life;
 - (e) to secure compliance with laws or regulations which are not consistent with the provisions of this Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII of GATT 1994, the protection of patents, trademarks and copyrights and the prevention of deceptive practices;
 - (f) and essential to the acquisition or distribution of products in general or local short supply, provided that any such measure shall be consistent with the principle that the Parties are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of the Agreement, shall be discontinued as soon as the conditions giving rise to them have ceased to exist;
- (ii) which relate to—
 - (a) gold or silver production or trade;
 - (b) the products of prison labour;
 - (c) the preservation of the environment and the conservation of natural resources; and
- (iii) which are imposed for the protection of national treasures of artistic, historical, anthropological, palaeontological or archaeological value.

ARTICLE VIII

Trade Promotion

The Parties agree to:

- (i) establish trade promotion programmes;
- (ii) facilitate the activities of official and private trade missions;
- (iii) organise fairs and expositions; and
- (iv) promote the continuous exchange of information, market studies and activities leading to the maximum utilisation of opportunities offered by the liberalisation of trade between the Parties.

ARTICLE IX

Bilateral Safeguard Measures

The Dominican Republic and the Member States of CARICOM acknowledge that, as Members of the WTO, they have recourse to the Agreement on Safeguards in the WTO.

2. The Member States of CARICOM and the Dominican Republic may apply bilateral safeguard measures of a temporary nature when:

- (i) imports of products from any Member State of CARICOM or the Dominican Republic are made in such quantities that such products cause serious injury or threat of serious injury to the domestic industry producing like or directly competitive products of the importing country;
- (ii) it is necessary to redress balance-of-payment deficits or to protect the external financial position of the importing country.

3. Safeguard measures shall consist of the temporary suspension of the tariff preferences and the reinstatement of the MFN duties for the specific product.

4. Safeguard measures shall be applied for an initial period of no longer than one year. This term may be renewed for no more than one year, if the causes that motivated the imposition of the safeguard measure persist.

5. The importing country seeking to impose or renew any safeguard measure shall request a meeting of the Council in order to have consultations on the imposition or renewal of such measures. This imposition or renewal does not require consensus.

ARTICLE X

Unfair Trade Practices

Where there is evidence of injury, material injury, threat of injury or material injury to the domestic industry of a Party due to unfair trade practices such as export subsidies and dumping, that Party may apply corrective measures, provided the application of these measures is in conformity with the Agreement on Subsidies and Countervailing Measures and the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade, 1994.

ARTICLE XI

Anti-Competitive Business Practices

The Parties will seek to discourage anti-competitive business practices in the Free Trade Area and work towards the adoption of common provisions to prevent such practices.

The Parties will undertake to establish mechanisms aimed at facilitating and promoting competition policy provisions and ensuring their application among and within the Parties.

ARTICLE XII

Customs Co-operation

The Parties, through their Customs authorities, agree to:

- (i) strengthen their bonds of co-operation, and mutual assistance to resolve any differences in relation to the administration of this Agreement;
- (ii) stimulate as much as possible the practices, procedures, terms and conditions of mutual assistance as well as to intensify the relationship between themselves with the aim of sharing experiences that may improve and harmonise the systems and customs procedures applicable, based on the principle of reciprocity; and

(iii) strengthen the co-operation through mechanisms that may speed up the movement of goods and clearance through customs; without prejudice to the application of necessary measures and controls to avoid illegal trade and other practices that cause distortions to international trade.

2. The Parties will facilitate the release of all originating merchandise in conformity with the measures and procedures agreed, after the entry into force of this Agreement.

3. The Parties will give priority to the areas of harmonisation of customs procedures, computer technology and training.

4. The Parties will simplify and make available to the trading community information on procedures for the international transit of goods, the required documentation, the mode of transport, the customs operation schedule, and information on the established sea ports and airports.

5. (i) Each Party, through its customs authorities, shall speedily release the goods originating in the other Party that enter its territory. In order to facilitate the clearance of goods originating in the other Party, automatic controls for time of stay, selective or aleatory criteria for revision, weight control, physical verification of the goods and direct release to importers shall be applied.

(ii) The Parties agree to simplify documents needed for the transit of originating goods in accordance with the national legislation of the importing Party.

(iii) Each Party, in conformity with its legislation, shall inform the other of procedures that will facilitate and speed up the release of goods, including the requirements for importation and entry to the territory of the Party.

6. The Customs authorities of the Parties will exchange, where possible, and subject to domestic legislation and regulations relating to confidentiality, information and experience on:

(i) Classification and Customs Valuation;

(ii) Rules of Origin;

(iii) documents and requirements for the import and export of goods;

(iv) general or specific statistics of imports and exports;

(v) goods subject to non-tariff measures;

- (vi) the customs regimes and procedures;
- (vii) the current domestic legislation relating to import taxes, customs and port charges, and any subsequent amendments;
- (viii) new technologies for preventing and detecting customs fraud;
- (ix) new trends in customs infractions.

7. Without prejudice to the provisions of other agreements, upon entry into force of this Agreement, each Party agrees to notify the customs authorities of the other Party of any intention to implement new customs regulations.

APPENDIX I TO ANNEX I

RULES OF ORIGIN

ARTICLE I

Definitions

For the purposes of this Appendix, the following definitions shall apply:

- (i) Materials: means raw materials, intermediate goods and parts or components utilised in production;
- (ii) Goods: means any materials or finished articles;
- (iii) Production: means planting, extraction, harvesting, fishing, hunting, manufacturing, processing or assembly of goods or products;
- (iv) Originating goods: means goods or materials which meet the Rules of Origin established in this Appendix.

The Transaction Value shall be determined according to the national legislation of the Parties.

ARTICLE II

Scope of Application

The scope of application of the Rules of Origin and its amendments is limited to the trade of goods governed by the provisions of this Agreement.