

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.

Have decided the following:

ARTICLE I

Definitions

For the purposes of this Agreement:

(i) Investments: means every kind of asset and in particular, though not exclusively, includes:

(a) movable and immovable property and any other property rights such as mortgages, liens or pledges;

(b) shares, stocks and debentures of companies or interests in the property of such companies;

(c) a claim to money or a claim to any performance having financial value;

(d) intellectual and industrial property rights, including rights with respect to copyrights, patents, trademarks, trade names, industrial designs, trade secrets, technical processes and know-how and goodwill;

(e) business concessions conferred by law or under contract, including concessions to search for, cultivate, extract, or exploit natural resources.

(ii) (a) An investor: means—

(i) any natural person possessing the citizenship of a Party in accordance with its laws; and

(ii) any Corporation, Company, Association, Partnership, or other organization, legally constituted under the laws of a Party, whether or not organized for pecuniary gain, or privately, or governmentally owned or controlled.

(b) Returns: means the amount yielded by an investment and, in particular, though not exclusively, includes profits, interests, capital gains, dividends, royalties or fees.

ARTICLE II

Admission and Promotion

Each Party shall in its territory promote, as far as possible, the investment made in its territory by investors of the other Party, and shall admit these investments in accordance with its laws. To that end, they shall, within six months of the entry into force of the Agreement, consult with each other through their designated agencies, with a view to identifying the most effective ways of achieving that purpose.

Each Party, shall, subject to its laws, grant the necessary authorisations for these investments, allow licensing agreements for manufacturing and for technical, commercial, financial and administrative assistance, and grant the necessary permits for the activities of the professional staff and consultants hired by the investors of the other Party.

ARTICLE III

General Principles Governing Treatment

Each Party shall admit and treat investments in a manner not less favourable than the treatment granted in similar situations to investments of its investors except for investments in areas to be identified in the Appendix to this Annex.

2. Each Party shall admit and treat investments in a manner not less favourable than the treatment granted in similar situations to areas related to Most-Favoured-Nation treatment except for investments in the areas identified in the Appendix to this Annex.

3. The obligation to grant treatment no less favourable than is granted to third States does not apply to:

- (i) any treatment or advantage resulting from any existing or future customs union or free trade area or common market or monetary union or similar agreement to which a Party is a party; or
- (ii) any international agreement or arrangement relating wholly or mainly to taxation.

ARTICLE IV

Fair and Equitable Treatment

Each Party shall ensure, at all times, fair and equitable treatment for investments and returns, which shall thus enjoy full protection and security, and shall not receive a treatment less favourable than established under international law.

ARTICLE V

Compliance with Obligations

Each Party shall comply with its commitments regarding investment and shall, in no way, impair, through the adoption of arbitrary and discriminatory measures, the management, development, maintenance, utilisation, usufruct, acquisition, expansion or transfer of said investments.

ARTICLE VI

Entry and stay of Foreigners

Subject to the laws governing the entry and stay of foreigners and any arrangements which the Parties may negotiate, investors of each Party shall be allowed to enter and remain in the territory of the other Party for the purposes of establishing, developing or administering investments, or to advise on the establishment, development and administration of investments in which they have committed or are about to commit a substantial amount of capital or resources.

ARTICLE VII

Performance Requirements

No Party shall impose any performance requirements which are contrary to the World Trade Organisation Agreement on Trade Related Investment Measures as a condition for establishing, expanding or maintaining investments.

ARTICLE VIII

Each Party shall provide appropriate means and procedures for asserting claims and enforcing rights regarding investments and investment agreements.

ARTICLE IX

Transparency

Each Party shall publish all laws, judgments, administrative practices and procedures regarding investments, or which may affect the same.

ARTICLE X

Compensation for Losses

Investors of one Party whose Investments in the territory of the other Party suffer losses owing to war or other armed conflict, revolution, a state of national emergency, revolt, insurrection or riot in the territory of the latter Party shall be accorded by the latter Party treatment, as regards restitution, indemnification, compensation or other settlement, no less favourable than that which the latter Party accords to investors of any third State.

ARTICLE XI

Conditions for Expropriation

Investments shall not be expropriated or nationalised either directly or indirectly through the application of measures equivalent to expropriation, except for reasons of public interest, in non-discriminatory fashion, and after payment of prompt, adequate and effective compensation, in a freely convertible currency and in accordance with due process of law, and with the general principles of treatment established in Articles III and IV.

ARTICLE XII

Free Convertibly and Free Transfer

Each Party in whose territory an investment has been made shall grant in respect of such investment the right to the unrestricted transfer of—

- (i) return;
- (ii) the proceeds from the total or partial liquidation of an investment provided however, that in periods of serious balance of payments difficulties such transfers may be phased over a period of three years;
- (iii) amounts for the repayment of loans incurred for the investment;
- (iv) the net earnings of nationals of one Party who are employed and allowed to work in connection with an investment in the territory of the other Party;
- (v) payments deriving from indemnification arising from expropriations and compensation for losses provided for in Articles X and XI of this Agreement.

2. Such transfers shall be in freely convertible currency and at the exchange rate applicable at the time of remittance.

3. Notwithstanding the above paragraph, a Party may prevent a transfer through the equitable, non-discriminatory and good faith application of its laws relating to:

- (i) bankruptcy, insolvency or the protection of the rights of creditors;
- (ii) issuing, trading or dealing in securities;
- (iii) criminal or penal offences;
- (iv) reports of transfers of currency or other monetary instruments; or
- (v) ensuring the satisfaction of judgments in adjudicatory proceedings.