

# AGREEMENT ESTABLISHING THE CARIBBEAN FREE TRADE ASSOCIATION (CARIFTA)

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**AGREEMENT ESTABLISHING THE  
CARIBBEAN FREE TRADE ASSOCIATION**

## **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 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, co-ordinated and sustained economic development;

**AWARE** that the broadening of 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 the ultimate creation of a viable economic community of Caribbean Territories;

**MINDFUL** of the different levels of development attained by the Territories of the Caribbean;

**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, and for the purposes hereof, “Territories” includes sovereign states internationally recognised.
3. The institutions of the Association shall be a Council and such organs as are mentioned in paragraph 3 of Article 28.
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 balanced and 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 Commonwealth Caribbean Countries and set out in Annex A;
- (d) to foster the harmonious development of Caribbean trade and its liberalisation by the removal of barriers to it;
- (e) to ensure that the benefits of free trade are equitably distributed among the Member Territories.

## **ARTICLE 3**

### **Exclusion from this Agreement**

1. The provisions of this Agreement shall not affect the rights and obligations under any agreements entered into by any of the Parties to this Agreement before the effective date hereof and notified to the Council:

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

Provided further that, in case of any non-observance of any provisions of this Agreement on the part of a Member Territory pursuant to its exemption in that behalf by virtue of the foregoing provisions of this Article, any other Member 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.

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 22<sup>nd</sup> February, 1968.

#### **ARTICLE 4** **Import Duties**

1. Subject to the provisions of Annex B, 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 B, 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 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.

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**

### Area Origin for Tariff Purposes

1. For the purposes of Articles 4 to 8, goods shall, subject to Annex C, 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 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 the Schedule to Annex C, 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 C.
5. The Council may decide to amend the provisions of this Article, Annex C 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.
7. 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 in clause 2 of the Oil and Fats Agreement, or any of  
such oils or fats, where the Government of one of such Territories is a party to the Oils and Fats  
Agreement, and the Government of the other of such Territories is not a party to that Agreement,

being the Agreement made on the 26<sup>th</sup> 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 6**

### **Deflection of Trade**

1. For the purposes 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 on 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 question, are significantly lower than the corresponding duties or charges levied 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 deflection 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 of 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 safe-guard 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 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 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 provision.

## **ARTICLE 7**

### **Revenue Duties and Internal Taxation**

1. Subject to the provisions of Annex D, Member Territories shall not -
  - (a) apply directly or indirectly to imported goods and 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 and 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 of 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 had 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 D -

- (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 processes 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 of 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 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 C.

### **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 purpose 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.
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.
5. Any Member Territory which, pursuant to paragraph 4 of this Article, applied 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 applied and the rate of such duty. The Council shall keep under review the question of such export duties and may at any time by majority vote make recommendations designed to moderate any damaging effect of those duties.

**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 and 8 and of Annexes B, C and D are effectively and harmoniously applied, taking account of the need to reduce as far as is possible the formalities imposed on trade and of the need to achieve mutually satisfactory solutions 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 reimported 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 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 to this Agreement, 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 preceding paragraph, “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 imports.

3. 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 imports from territories outside the Area.

### **ARTICLE 14** **Quantitative Export Restrictions**

1. Subject as mentioned in paragraph 1 of Article 13, 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.

### **ARTICLE 16** **Security Exceptions**

1. Nothing in this 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.

### **ARTICLE 17** **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 F; 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. In 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 and 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 applying the aid, the application of such obligations under this Agreement as the Council considers appropriate.

3. The Council may decide to amend the provision of this Article and of Annex F.

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 subsidizing, of agricultural products;
- (b) exclusive of sub-paragraph (a) of paragraph 1 and paragraph 3, shall not apply in

respect to 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.

## **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.
7. The provisions of this Article shall not apply in respect to inter-territorial trade within the Area -
  - (a) in agricultural products until such time as Member Territories shall agree upon a

regional policy with respect to the production and marketing, including the subsidization, of agricultural products;

- (b) in manufactured goods until Member Territories have agreed upon a regional policy with respect to incentives to industry.

## **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) agreements between enterprises, decisions by associations of enterprises and concerted practices between enterprises which have as their object or result the prevention, restrictions 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 30<sup>th</sup> April 1970, 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 -
  - (1) specification of the restrictive business practices or dominant enterprises with which the Council should be concerned;
  - (2) methods of securing information about restrictive business practices or dominant enterprises;
  - (3) procedures for investigations;
  - (4) 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**

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 30<sup>th</sup> April 1970, 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 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 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 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 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 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 30<sup>th</sup> April 1973.

5. Before 1<sup>st</sup> May 1973, if the Council considers that some provision similar to those in paragraph 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:

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.

2. The 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.

3. 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.

4. 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.

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

6. For the purpose 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 or tax;

“tax” includes any impost, duty or due.

## **ARTICLE 24**

### **Economic and Financial Policies**

Members 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**

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

## **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 of international organisations.
2. Each Member Territory shall be represented in the Council and shall have one vote.
3. The Commonwealth Caribbean Regional Secretariat shall be the principal administrative organ of the Association and the Council 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 it in accomplishing its tasks. Decisions of the Council pursuant to this paragraph shall be made by majority vote.
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. A decision or recommendation

of the Council pursuant to any such provisions 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.

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**

### **Administrative Arrangements of the Association**

1. The Council shall take decision 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 between Member Territories in conformity with the appropriate basis of Territorial contributions to the annual budget of the Commonwealth Caribbean Regional Secretariat, approved at the Conference of Ministers of Trade held in Guyana on 21<sup>st</sup> and 22<sup>nd</sup> February, 1968, or in such other manner as the Council may decide.

## **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 the number of Signatory Territories has been ascertained consistently with paragraphs 4 and 5 of this Article and 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.

4. Any Commonwealth Caribbean Country by whose Government an 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 this 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.

5. Notwithstanding anything to the contrary in this Agreement, the preceding paragraph shall not apply on or after the 1<sup>st</sup> May, 1968, to a Commonwealth Caribbean Country unless, before that date, there has been deposited an instrument signifying ratification by its Legislature to this Agreement, pursuant to the deposit by its Government of an instrument of endorsement, in accordance with this Article.

### **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 pursuant to any decision thereof in that behalf 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 action and special procedures as may be appropriate.

### **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**

1. 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.

**ARTICLE 38**  
**Protection of Guyanese Petroleum Products**

1. Notwithstanding anything in this Agreement, any quantitative restriction within the meaning

of Article 13 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 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 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 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, "that 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 of 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 the 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.

**ANNEX A**  
**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  
1<sup>st</sup> 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 principal 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 establish more industries in the less-developed countries should be accepted and the ECLA Secretariat should be asked to undertake feasibility 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 of 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.

#### 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:-

<u>SITC Item No.</u>	<u>Description of Product</u>
<u>Ex</u> 048-04	Biscuits, sweetened or unsweetened
<u>Ex</u> 657-03	Coir products, mats and matting
<u>Ex</u> 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**

053	Fruits preserved and fruit preparations, except frozen citrus concentrates and citrus segments.
121-01	Tobacco unmanufactured (including scrap tobacco and tobacco stems).
122	Manufactured tobacco except cigars.
<u>Ex</u> 533	Prepared paints, enamels, lacquer and varnishes. Ships' bottom compositions, putty and all other (including driers).
<u>Ex</u> 552-02	Cleansing preparations without soap (detergents).
<u>Ex</u> 632	Crates and wooden containers.
<u>Ex</u> 721-04	Radio and Television sets
<u>Ex</u> 721-19	Accumulators.
<u>Ex</u> 821	Wooden furniture, metal furniture.
<u>Ex</u> 821-09	Mattresses.
<u>Ex</u> 841	Underwear and shirts of knitted fabrics. Underwear, shirts and nightwear of fabrics other than knitted. Outerwear of non-knitted textile fabrics.
<u>Ex</u> 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 tariff treatment, being a product the duty on which is to be eliminated 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
1 <sup>st</sup> May, 1969	80 per cent
1 <sup>st</sup> May, 1970	60 per cent
1 <sup>st</sup> May, 1971	40 per cent
1 <sup>st</sup> May, 1972	20 per cent
1 <sup>st</sup> May, 1973	0 per cent

4. On and 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 not exceeding the percentage of the basic duty specified against that date:-

Effective date hereof	100 per cent
1 <sup>st</sup> May, 1973	50 per cent
1 <sup>st</sup> May, 1978	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 thenceforth applicable as 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 the Council, which may, by majority decision, authorise the continued application by any less-developed Territory of import duty on such product after the 30<sup>th</sup> 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 purpose of this Annex -

- (a) “basic duty” means, in respect of any product imported into a Member Territory, the import 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) “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 on 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 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 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.

### ANNEX 'C'

#### **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:

#### **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 regarded 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 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 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-paragraph (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 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 good, 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 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 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 of 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 form 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 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 to 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 (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 rubber 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.
<u>Ex</u>	291-09	Sponges, fish eggs (not for food) bristles, hair and their waste.
	292-02	Natural gums, resins, balsam and lacs.
	292-09	Kapok.
<u>Ex</u>	312-01	Crude petroleum.
	411-01	Oils from fish and marine animals.
	411-02	Animals oils, fats and greases (excluding lard).
	412-01	Linseed oil.
	412-11	Castor oil.
	413-02	Hydrogenated oils and fats.
	413-04	Waxes of animal or vegetable origin.
<u>Ex</u>	511-09	Calcium carvide, 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, nutmeg 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.
<u>Ex</u>	655-06	Twine of cotton.
<u>Ex</u>	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, slabs, billets, sheet bars and tin-plate bars of iron and 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 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 nickel alloys, worked (bars, rods, plates, sheets, wire, pipes, tubes, castings and forgings).
684-01	Aluminum and aluminum alloys unwrought.
684-02	Aluminum and aluminum alloys, worked (bars, rods, plates, sheets, wire, pipes, tubes, castings and forgings).
685-01	Lead and lead alloys unwrought.
685-02	Lead and lead alloys, 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).
<u>Ex</u> 699-05	Expanded metal or iron and steel.
<u>Ex</u> 699-06	Expanded metal of aluminum, copper, and other non-ferrous base metals.
899-05	Buttons and studs of all materials, except those of precious metals and precious stones.

#### 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:-

<u>SITC Item No.</u>	<u>Description of Product</u>
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:-

<u>SITC Item No.</u>	<u>Description of Product</u>
112-04	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
1 <sup>st</sup> May, 1969	40 per cent
1 <sup>st</sup> May, 1970	30 per cent
1 <sup>st</sup> May, 1971	20 per cent
1 <sup>st</sup> May, 1972	10 per cent
1 <sup>st</sup> 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 hereof	100 per cent
1 <sup>st</sup> May, 1973	50 per cent
1 <sup>st</sup> May, 1978	0 per cent

5. Before the 1<sup>st</sup> 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 30<sup>th</sup> 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 modifications, 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 basis 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 from the other Member Territories except in so far as it may be necessary so to do for the purpose of compliance with this Annex.

#### ANNEX ‘E’

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

#### ANNEX ‘F’

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, in 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 costs and losses of the credit insurance institutions.
- (g) The grant by governments (or special institutions controlled by governments) of export credits 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.