

Caribbean Community (CARICOM) Secretariat

TREATY ESTABLISHING THE CARIBBEAN COMMUNITY, CHAGUARAMAS, 4TH JULY 1973

(This is the Official Text of the Treaty, the Final Act and the Agreement establishing the Common External Tariff)

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PREAMBLE

The Governments of the contracting States,

Determined to consolidate and strengthen the bonds which have historically existed among their peoples;

Sharing a common determination to fulfil the hopes and aspirations of their peoples for full employment and improved standards of work and living;

Conscious that these objectives can most rapidly be attained by the optimum utilisation of available human and natural resources of the Region; by accelerated, coordinated and sustained economic development, particularly through the exercise of permanent sovereignty over their natural resources; by the efficient operation of common services and functional cooperation in the social, cultural, educational and technological fields; and by a common front in relation to the external world;

Convinced of the need to elaborate an effective regime by establishing and utilising institutions designed to enhance the economic, social and cultural development of their peoples;

Have Agreed as Follows:

**CHAPTER I
PRINCIPLES**

**ARTICLE 1
ESTABLISHMENT OF THE CARIBBEAN COMMUNITY**

By this Treaty the Contracting Parties establish among themselves a Caribbean Community (hereinafter referred to as "the Community") having the membership, powers and functions hereinafter specified.

**ARTICLE 2
MEMBERSHIP**

1. Membership of the Community shall be open to--

(a)

- (i) Antigua
- (ii) Bahamas
- (iii) Barbados
- (iv) Belize
- (v) Dominica
- (vi) Grenada
- (vii) Guyana
- (viii) Jamaica
- (ix) Montserrat
- (x) St. Kitts-Nevis-Anguilla
- (xi) St. Lucia
- (xii) St. Vincent

(xiii) Trinidad and Tobago.

(b) any other State of the Caribbean Region that is in the opinion of the Conference able and willing to exercise the rights and assume the obligations of membership in accordance with Article 29 of this Treaty.

2. States listed in paragraph (a) of this Article the Governments of which sign this Treaty in accordance with Article 22 and ratify it in accordance with Article 23 shall become Member States of the Community.

ARTICLE 3 DEFINITION OF LESS DEVELOPED COUNTRIES AND MORE DEVELOPED COUNTRIES

For the purposes of this Treaty the States specified in paragraph 1 (iii), (vii), (viii) and (xiii) of Article 2 shall be designated More Developed Countries and the remainder listed in the said Paragraph, other than the Bahamas, shall be designated Less Developed Countries until such time as the Conference otherwise determine by majority decision.

ARTICLE 4 OBJECTIVES OF THE COMMUNITY

The Community shall have as its objectives--

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

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

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

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

(b) the coordination of the foreign policies of Member States; and

(c) functional cooperation, including-

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

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

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

ARTICLE 5 GENERAL UNDERTAKING AS TO IMPLEMENTATION

Member States shall take all appropriate measures, whether general or particular, to ensure the carrying out of obligations arising out of this Treaty or resulting from

decisions taken by the Organs of the Common Market. They shall facilitate the achievement of the objectives of the Common Market. They shall abstain from any measures which could jeopardise the attainment of the objectives this Treaty.

CHAPTER II ORGANS OF THE COMMUNITY

ARTICLE 6 PRINCIPAL ORGANS

The principal organs of the Community shall be-

(a) the Conference of Heads of Government (hereinafter referred to as "the Conference");

(b) The Common Market Council established under the Annex (hereinafter referred to as "the Council").

ARTICLE 7 THE CONFERENCE

COMPOSITION

The Conference shall consist of the Heads of Government of Member States.

Any member of the Conference may, as appropriate, designate an alternate to represent him at any meeting of the Conference.

ARTICLE 8 FUNCTIONS AND POWERS

1. The primary responsibility of the Conference shall be to determine the policy of the Community.

2. The Conference may establish, and designate as such, institutions of the Community in addition to those specified in paragraphs (a) to (g) of Article 10 of this Treaty, as it deems fit for the achievement of the objectives of the Community.

3. The Conference may issue directions of a general or special character as to the policy to be pursued by the Council and the Institutions of the Community for the achievement of the objectives of the Community, and effect shall be given to any such directions.

4. Subject to the relevant provisions of this Treaty, the Conference shall be the final authority for the conclusion of treaties on behalf of the Community and for entering into relationships between the Community and International Organisations and States.

5. The Conference shall take decisions for the purpose of establishing the financial arrangements necessary for meeting the expenses of the Community and shall be the final authority on questions arising in relation to the financial affairs of the Community.

6. The Conference may regulate its own procedure and may decide to admit at its deliberations observers, representatives of non-Member States or other entities.

7. The Conference may consult with entities and other organisations within the region and for this purpose may establish such machinery as it deems necessary.

ARTICLE 9

VOTING IN THE CONFERENCE

1. Each member of the Conference shall have one vote.
2. The Conference shall make decisions and recommendations by the affirmative vote of all its members.
3. A decision shall be binding upon each Member State to which it is directed. A recommendation shall have no binding force. Where, however, a Member State fails to observe a recommendation of the Conference, it shall submit a report to the Conference as early as practicable and in any event not later than six months thereafter, giving reasons for its non-compliance.
4. For the purposes of this Article, abstentions shall not be construed as impairing the validity of decisions or recommendation of the Conference provided that not less than three-quarters of its members including at least two of the More Developed Countries vote in favour of any decision or recommendation.

ARTICLE 10 INSTITUTIONS OF THE COMMUNITY

Institutions of the Community shall be-

- (a) the Conference of Ministers responsible for Health
- (b) the Standing Committee of Ministers responsible for Education
- (c) the Standing Committee of Ministers responsible for Labour
- (d) the Standing Committee of Ministers responsible for Foreign Affairs
- (e) the Standing Committee of Ministers responsible for Finance
- (f) the Standing Committee of Ministers responsible for Agriculture
- (g) the Standing Committee of Ministers responsible for Mines
- (h) any other institution that may be established and designated as such by the Conference in accordance with Article 18.

ARTICLE 11 COMPOSITION OF INSTITUTIONS OF THE COMMUNITY

1. Each Institution of the Community as set out in paragraphs (a) to (h) of Article 10 of this Treaty shall consist of representatives of Member States. Each Member State shall designate a Minister of Government as its representative on each such institution.
2. Where the Minister designated under paragraph 1 of this Article is unable to attend a meeting of the institution the Member State may designate any other person as an alternate to attend such meeting in his stead.
3. Where the Conference establishes any other institutions in the exercise of the power conferred on it by paragraph 2 of Article 8 of this Treaty, the composition of such institution shall be determined by the Conference.

ARTICLE 12 FUNCTIONS AND POWERS

1. Subject to the relevant provisions of Article 8 of this Treaty, the institutions of the Community shall formulate such policies and perform such functions as are

necessary for the achievement of the objectives of the Community within their respective spheres of competence.

2. The institutions of the Community may regulate their own procedure and-

(a) may establish such subsidiary committees, agencies and other bodies as they consider necessary for the efficient performance of their functions; and

(b) may decide to admit at their deliberations observers, representatives of non-Member States or other entities.

ARTICLE 13 VOTING IN INSTITUTIONS

1. Each Member State represented on an Institution shall have one vote.

2. Unless otherwise provided for, decisions of an Institution shall be made by an affirmative vote of all its members. For the purposes of this paragraph, abstentions shall not be construed as impairing the validity of decisions of an Institution provided that not less than three-quarters of its members including at least two of the More Developed Countries vote in favour of such decisions.

3. Recommendation shall be made by a two-thirds majority vote of all its members including at least two of the More Developed Countries and shall have no binding force. Where a Member State fails to observe a recommendation of an Institution in whole or in part, it shall submit a report to the Institution making the recommendation as early as practicable and in any event not later than six months after receiving notice of such recommendation giving reasons for its non-compliance.

4. Observers at meetings of Institutions shall not have the right to vote.

ARTICLE 14 ASSOCIATES INSTITUTIONS

1. The following institutions shall be recognised as Associate Institutions of the Community-

- (a) the Caribbean Development Bank;
- (b) the Caribbean Investment Corporation;
- (c) the West Indies Associated States Council of Ministers;
- (d) the East Caribbean Common Market Council of Ministers;
- (e) the Caribbean Examinations Council
- (f) the Council of Legal Education;
- (g) the University of Guyana;
- (h) the University of the West Indies;
- (i) the Caribbean Meteorological Council;
- (j) the Regional Shipping Council;
- (k) any other institution designated as such by the Conference.

2. The Community shall seek to establish such relationships with its Associate Institutions as will promote the achievement of its objectives.

ARTICLE 15 THE COMMUNITY SECRETARIAT

1. The Commonwealth Caribbean Regional Secretariat shall be recognised as the Community Secretariat. The Community Secretariat (hereinafter referred to as "the Secretariat") shall be the principal administrative organ of the Community. The headquarters of the Secretariat shall be located in Georgetown, Guyana.

2. The Secretariat shall comprise a Secretary-General and such staff as the Community may require. The Secretary-General shall be appointed by the Conference (on the recommendation of the Council) for a term not exceeding 5 years and may be re-appointed by the Conference. He shall be the chief administrative officer of the Community.

3. The Secretary-General shall act in that capacity in all meetings of the Conference, the Council and of the institutions of the Community. The Secretary-General shall make an annual report to the Conference on the work of the Community.

4. In the performance of their duties the Secretary-General and his staff shall neither seek nor receive instructions from any government whether of Member States or otherwise or from any other authority. They shall refrain from any action which might reflect on their position as officials of the Community, and shall be responsible only to the Community.

5. Each Member State undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and his staff and shall not seek to influence them in the discharge of their responsibilities.

6. The Conference shall approve the staff Regulations governing the operation of the Secretariat.

7. The Secretary-General shall approve Staff Rules for the operation of the Secretariat.

ARTICLE 16 FUNCTIONS OF THE SECRETARIAT

1. The functions of the Secretariat shall be as follows:-

(a) to service meetings of the Community and any of its Institutions or Committees as may from time to time be determined by the Conference;

(b) to take appropriate follow-up action on decisions made at such meetings;

(c) to initiate, arrange and carry out studies on questions of economic and functional co-operation relating to the region as a whole;

(d) to provide services to Member States at their request in respect of matters relating to the achievement of the objectives of the Community;

(e) to undertake any other duties which may be assigned to it by the Conference or any of the Institutions of the Community.

CHAPTER III COORDINATION AND FUNCTIONAL COOPERATION

ARTICLE 17 COORDINATION OF FOREIGN POLICES

1. To the end that Member States aim at the fullest possible coordination of their foreign policies within their respective competences and seek to adopt as far as possible common positions in major international issues, there is hereby established a Standing Committee of Ministers responsible for Foreign Affairs.

2. The Committee shall have the power to make recommendations to the Governments of Member States represented on the Committee.

3. Only member States possessing the necessary competence with respect to the

matters under consideration from time to time may take part in the deliberations of the Committee.

4. Where after the coming into force of the Treaty Member State achieves full sovereign status such State shall elect whether it wishes to be bound by the provisions of this Article.

5. The recommendations of the Committee shall be made by an affirmative vote of all the Member States competent and participating in the deliberations.

6. The provisions of Article 13 shall not apply to this Article.

ARTICLE 18 FUNCTIONAL COOPERATION

Without prejudice to the requirements of any other provision of this Treaty, Member States, in furtherance of the objectives set out in Article 4 of this Treaty, undertake to make every effort to cooperate in the areas set out in the Schedule to this Treaty.

ARTICLE 19 SETTLEMENT OF DISPUTES

Any dispute concerning the interpretation or application of this Treaty, unless otherwise provided for and particularly in Articles 11 and 12 of the Annex, shall be determined by the Conference.

CHAPTER IV GENERAL AND FINAL PROVISIONS

ARTICLE 20 LEGAL CAPACITY

1. The Community shall have full juridical personality.

2. Each Member State shall in its territory accord to the Community the most extensive legal capacity accorded to legal persons under its municipal laws including the capacity to acquire and transfer moveable and immovable property and to sue and be sued in its own name. In any legal proceedings the Community shall be represented by the Secretary General of the Secretariat.

3. The Community may enter into agreement with Member States, non-Member States and International Organisations.

4. Each Member State hereby agrees to take such action as is necessary to make effective in its territory the provisions of this Article and shall promptly inform the Secretariat of such action.

ARTICLE 21 PRIVILEGES AND IMMUNITIES

1. The privileges and immunities to be recognised and granted by the Member States in connection with the Community shall be laid down in a Protocol to this Treaty.

2. The Community shall conclude with the Government of the Member States in which the headquarters of the Secretariat is situated an agreement relating to the privileges and immunities to be recognized and granted in connection with the Secretariat.

ARTICLE 22 SIGNATURE

This Treaty shall be open for signature on the 4th July, 1973 by any State mentioned in paragraph I (a) of Article 2 of this Treaty.

ARTICLE 23 RATIFICATION

This Treaty and any amendments thereto shall be subject to ratification by the Contracting States in accordance with their respective constitutional procedures. Instruments of ratification shall be deposited with the Secretariat which shall transmit certified copies to the Government of each Member State.

ARTICLE 24 ENTRY INTO FORCE

This Treaty shall enter into force on the 1st August 1973; if instruments of ratification have been previously deposited in accordance with Article 23 of this treaty by the States mentioned in Article 2 paragraph I (a) (iii), (vii), (viii) and (xiii), and if not, then on such later date on which the fourth such instrument has been so deposited.

ARTICLE 25 REGISTRATION

This Treaty and any amendments thereto shall be registered with the Secretariat of the United Nations.

ARTICLE 26 AMENDMENTS

1. Save as otherwise provided for in Article 66 of the Annex, upon a decision of the Conference for this purpose, this Treaty may be amended by the Contracting Parties.
2. Any such amendment shall enter into force one month after the date on which the last of the instruments of Ratification is deposited.
3. Notwithstanding paragraph I hereof no amendments may be made to the Treaty prior to May 1. 1974.

ARTICLE 27 WITHDRAWAL

1. A Member State may withdraw from the Community by giving notice in writing to the Secretariat and the Secretariat shall promptly notify the other Member States. Such withdrawal shall take effect 12 months after the notice is received by the Secretariat.
2. A Member State so withdrawing undertakes to honour any financial obligations duly assumed during its membership of the Community.

ARTICLE 28 NEGOTIATION AND CONCLUSION OF AGREEMENTS

1. For the purpose of negotiating agreements, the Conference may designate any institution of the Community to carry out negotiations.
2. Unless otherwise determined by the Conference in any particular case, the conclusion of agreements by the Community shall be undertaken by the Conference.

ARTICLE 29

ACCESSION TO THE TREATY

1. Any State or Territory of the Caribbean Region may apply to the Conference to become a member of the Community and may, if the Conference so decides, be admitted to membership in accordance with paragraph 2 of this Article.
2. Admission to membership shall be upon such terms and conditions as the Conference may decide and shall take effect from the date on which an appropriate instrument of accession is deposited with the Secretariat.

ARTICLE 30 ASSOCIATE MEMBERSHIP

1. Any State which in the opinion of the Heads of Government Conference is qualified for membership of the Community in accordance with paragraph I(b) of Article 2 of this Treaty may, upon application to the Conference for associate membership of the Community, be admitted as an associate member of the Community in accordance with paragraph 2 of this Article.
2. On an application made under paragraph I of this Article the Conference shall determine the conditions under which the applicant State may be associated with the Community.

ARTICLE 31 SAVING

1. Member States that are not also members of the Common Market shall not be entitled to participate in the decisions taken under the Treaty relating to the Common Market.
2. Decisions taken under this Treaty requiring such action shall be subject to the relevant constitutional procedures of the respective Member States.
3. Where necessary, Member States undertake to take steps as expeditiously as possible to give full effect in law to all decisions of the organs and institutions of the Community which are binding on them.
4. Member States shall not participate in decisions with respect to the subject of which they do not possess the necessary competence.

ARTICLE 32 STATUS OF THE ANNEX AND SCHEDULE

The Annex and Schedule to this Treaty shall form an integral part of this Treaty.

ARTICLE 33 GENERAL PROVISIONS OF THE COMMON MARKET

The provisions of the Annex shall govern the establishment, membership and operation of the Common Market.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorised thereto by their respective Governments, have affixed their signatures below this Treaty.

Done at Chaguaramas on the fourth day of July in the year one thousand nine hundred and seventy-three.

Signed by ERROL W. BARROW
for the Government of Barbados on 4TH JULY 1973.

Signed by L.F.S. BURNHAM
for the Government of Guyana on 4th July 1973.

Signed by MICHAEL MANLEY
for the Government of Jamaica on 4th July 1973.

Signed by ERIC WILLIAMS
for the Government of Trinidad and Tobago on 4th July 1973.

ANNEX TO THE TREATY THE CARIBBEAN COMMON MARKET

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ANNEX TO THE TREATY

THE CARIBBEAN COMMON MARKET

PREAMBLE

The Governments of the Contracting States:

Noting that the Agreement establishing the Caribbean Free Trade Association had expressly foreshadowed "the ultimate creation of a viable economic community of Caribbean Territories";

Recognising that over the past five years the Caribbean Free Trade Association has laid the foundation for further progress in regional economic integration;

Convinced that closer economic integration among Member States will contribute to the creation of a viable economic community of the Commonwealth Caribbean Countries;

Acknowledging that it is the intention to establish a Common External Tariff as an integral feature of the Caribbean Common Market;

Have Agreed as follows:-

CHAPTER I PRINCIPLES

ARTICLE 1 ESTABLISHMENT OF THE CARIBBEAN COMMON MARKET

There is hereby established a Caribbean Common Market (hereinafter referred to as the 'Common Market') which shall have membership powers and functions hereinafter specified.

ARTICLE 2 MEMBERSHIP

(a) Membership of the Common Market shall be open to-

- (i) Antigua
- (ii) Barbados
- (iii) Belize
- (iv) Dominica
- (v) Grenada
- (vi) Guyana
- (vii) Jamaica
- (viii) Montserrat
- (ix) St. Kitts-Nevis-Anguilla
- (x) St. Lucia
- (xi) St. Vincent
- (xii) Trinidad and Tobago

(b) any other state of the Caribbean region that is in the opinion of the Conference of Heads of Government (hereinafter referred to as the 'Conference') mentioned in Article 6 of the Treaty establishing the Caribbean Community, able and willing to exercise the rights and assume the obligations of membership in accordance with Article 65 of this Annex.

2. States listed in paragraph 1(a) of this Article the Governments of which are

parties to the Treaty establishing the Caribbean Community (hereinafter referred to as the 'Treaty') shall become members of the Common Market.

ARTICLE 3 OBJECTIVES OF THE COMMON MARKET

The Common Market shall have as its objectives--

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

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

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

ARTICLE 4 GENERAL UNDERTAKING AS TO IMPLEMENTATION

Member States shall take all appropriate measures, whether general or particular, to ensure the carrying out of the obligations arising out of this Annex or resulting from decisions taken by the Organs and Institutions of the Common Market. They shall facilitate the achievement of the objectives of the Common Market. They shall abstain from any measures which could jeopardise the attainment of the objectives of this Annex.

CHAPTER II ORGANS OF THE COMMON MARKET

THE COUNCIL

ARTICLE 5 ESTABLISHMENT

1. There shall be established a Common Market Council (hereinafter referred to as "the Council") which, subject to paragraph 3 of Article 8 of the Treaty, shall be the principal organ of the Common Market.

2. Each Member State shall be represented on the Council.

ARTICLE 6 COMPOSITION

1. The Council shall consist of one Minister of Government designated by each Member State.

2. Where the Minister designated under paragraph 1 of this Article is unable to attend a meeting of the Council the Member State may designate any person as an alternate to attend in his stead.

ARTICLE 7 FUNCTIONS AND POWERS

1. The Council shall, in order to ensure the achievement of the objectives set out in this Annex and in accordance with the provisions thereof, be responsible for:

(a) exercising such powers and performing such duties as are conferred or imposed upon it by this Annex;

- (b) ensuring the efficient operation and development of the Common Market including the settlement of problems arising out of its functioning;
- (c) keeping this Annex under constant review with a view to making proposals to the Conference for the progressive development of the Common Market; .
- (d) receiving and considering references alleging breaches of any obligations arising under this Annex and deciding thereon;
- (e) considering what further action should be taken by Member States and the Common Market and making proposals to the Conference to facilitate the establishment of closer economic and commercial links with other States, association of States or international organisations.

2. The Council may regulate its own procedure including the establishment of such committees and other bodies as it may deem necessary to perform its functions and may decide to admit to its deliberations observers, representatives of non-Member States or other entities.

2. The Council may regulate its own procedure including the establishment of such committees and other bodies as it may deem necessary to perform its functions and may decide to admit to its deliberations observers, representatives of non-Member States or other entities.

ARTICLE 8 VOTING

1. Each Member State represented on the Council shall have one vote.
2. Except in so far as this Annex provide otherwise, decisions and recommendations of the Council shall be made by an affirmative vote of all its representatives.
3. A decision shall be binding upon each Member State to which it is directed. A recommendation shall have no binding force.
4. For the purposes of this Article, abstentions shall not be construed as impairing the validity of decisions or recommendations of the Council provided that not less than three-quarters of its members including at least two of the More Developed Countries vote in favour of any decision or recommendation.

ARTICLE 9 THE COMMON MARKET SECRETARIAT

The Secretariat referred to in Article 15 of the Treaty shall be the Secretariat responsible for the administrative functions of the Common Market.

ARTICLE 10 FUNCTIONS OF THE SECRETARIAT

The Secretariat shall--

- (a) service meetings of the Common Market and any of its Committees;
- (b) take appropriate follow-up action on decisions arrived at such meetings;
- (c) initiate, arrange, and carry out studies on questions of economic integration relating to theregion;
- (d) provide services to Member States at their request in respect of matters relating to the achievement of the objectives of the Common Market;
- (e) undertake any other duties which may be assigned to it by the Council.

**ARTICLE 11
DISPUTES PROCEDURE WITHIN THE COMMON MARKET**

1. If any Member State considers that any benefit conferred upon it by this Annex or any objective of the Common Market is being or may be frustrated and if no satisfactory settlement is reached between the Member States concerned any of those Member States may refer the matter to the Council.

2. The Council shall promptly, make arrangements for examining the matter. Such arrangements may include a reference to a Tribunal constituted in accordance with Article 12 of this Annex. The Council shall refer the matter at the request of any Member State concerned to the Tribunal. Member States shall furnish all information which may be required by the Tribunal or the Council in order that the facts may be established and the issue determined.

3. If in pursuance of the foregoing provisions of this Article the Council or the Tribunal, as the case may be, finds that any benefit conferred on a Member State by this Annex or any objective of the Common Market is being or may be frustrated, the Council may, by majority vote, make to the Member State concerned such recommendations as it considers appropriate.

4. If a Member State to which a recommendation is made under paragraph 3 of this Article does not or is unable to comply with such recommendation the Council may, by majority vote, authorise any Member State to suspend to the Member State which has not complied with the recommendation the application of such obligations under this Annex as the Council considers appropriate.

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

**ARTICLE 12
REFERENCE TO TRIBUNAL**

1. The establishment and composition of the Tribunal referred to in Article 11 of this Annex shall be governed by the following provisions of this Article.

2. For the purposes of establishing an ad hoc tribunal referred to in Article 11 of this Annex, a list of arbitrators consisting of qualified jurists shall be drawn up and maintained by the Secretary-General. To this end, every Member State shall be invited to nominate two persons, and the names of the persons so nominated shall constitute the list. The term of an arbitrator, including that of any arbitrator nominated to fill a vacancy, shall be five years and may be renewed.

3. Each party to the dispute shall be entitled to appoint from the list an arbitrator to an ad hoc tribunal. The two arbitrators chosen by the parties shall be appointed within 30 days following the date on which the notification was received by the Secretary-General. The two arbitrators shall within 15 days following the date of the last of their own appointments, appoint a third arbitrator from the list who shall be the chairman; as far as practicable the chairman shall not be a national of any of the parties to the dispute.

4. Where the first two arbitrators fail to appoint a chairman within the period prescribed, the Secretary-General shall within 15 days following the expiry of that period appoint a chairman. If any party fails to appoint an arbitrator within the

period prescribed for such an appointment, the Secretary-General shall appoint an arbitrator within 15 days following the expiry of such period. Any vacancy shall be filled in the manner specified for the initial appointment.

5. Where more than two Member States are parties to a dispute, the parties concerned shall agree among themselves on the two arbitrators to be appointed from the list. In the absence of such appointment within the prescribed period, the Secretary-General shall appoint a sole arbitrator whether from the list or otherwise, for the purpose.

6. An ad hoc tribunal shall decide its own procedure and may, with the consent of the parties to the dispute, invite any party to this Annex to submit its views orally or in writing.

7. The Secretary-General shall provide the ad hoc tribunal with such assistance and facilities as it may require.

8. The expenses of the ad hoc tribunal shall be defrayed in such manner as determined by the Council.

9. Member States undertake to employ the procedures set out in this Article for the settlement of any dispute specified in paragraph 1 of Article 11 and to refrain from any other method of disputes settlement.

CHAPTER III **TRADE LIBERALISATION**

ARTICLE 13 **EXCLUSION FROM THIS ANNEX**

1. Subject to the provisions of this Article, nothing in this Annex shall be taken to prevent the Member State concerned from imposing import duties or quantitative restrictions on the products listed in Schedule I to this Annex for such periods as are specified therein for the purpose of giving effect to any undertaking by such Member State respecting import duties or quantitative restrictions.

2. Each Member State shall take all reasonable steps open to it in connection with any undertaking referred to in paragraph 1 of this Article in order to implement any of its obligations under this Annex respecting import duties or quantitative restrictions on such products.

3. Where no expiry date is specified in Schedule I to this Annex, the Member State concerned shall take all reasonable steps open to it to implement any of its obligations in respect of commodities under this Annex respecting corresponding import duties or quantitative restrictions on such products at the earliest practicable date.

4. Where in consequence of any Member State availing itself of any exemption under paragraphs 1 to 3 any other Member State considers that a benefit conferred on it by this Annex respecting import duties or quantitative restrictions on such products is being or may be frustrated that other Member State may refer the matter to Council.

5. Upon reference under paragraph 4 of this Article the Council may unless the matter is otherwise resolved, authorise upon such terms and conditions as it thinks fit the Member State making the reference to suspend, in relation to the Member State availing itself of the exemption, the performance of such of its obligations in respect of commodities under this Annex respecting import duties or quantitative restrictions on such products as the Council considers appropriate.

6. The Council shall keep under continuous review the observance by Member States of the provisions of paragraphs 2 and 3 Of this Article and may from time to

time, by majority vote, recommend to any Member State such measures as it thinks fit for the purposes of those paragraphs.

ARTICLE 14 COMMON MARKET ORIGIN

1. Subject to Schedule II to this Annex, in this Annex goods shall be treated as being of Common Market origin if they are consigned from a Member State to a consignee in another Member State and comply with any one of the following conditions, that is to say, the goods must--

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

(b) fall within a description of goods listed in a Process List to be established by the decision of Council and have been produced within the Common Market by the appropriate qualifying process described in that List, or

(c) have been produced within the Common Market and the value of any materials imported from outside the Common Market or of undetermined origin which have been used at any stage of the production of the goods does not exceed--

(i) In a Less Developed Member Country 60 per cent of the export price of the goods;

(ii) In any other Member State 50 per cent of the export price of the goods.

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

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

4. The Council shall keep Schedule II and the Process List established under sub-paragraph (b) of Paragraph 1 of this Article under continuous review and may amend them in order to ensure the smooth operation of the rules of origin of the Common Market.

ARTICLE 15 IMPORT DUTIES

1. Except as provided in Article 52 and Schedule III to this Annex Member States shall not apply any import duties on goods of Common Market origin.

2. Nothing in paragraph 1 of this Article shall be construed to extend to the imposition of non-discriminatory internal charges on any products or a substitute not produced in the importing Member State.

3. For the purposes of this Article and Schedule III to this Annex the term "import duties" means any tax or surtax of customs and any other charges of equivalent effect whether fiscal, monetary or exchange, which are levied on imports except duties notified under Article 17 of this Annex and other charges which fall within that Article.

4. Nothing in Paragraph 3 of this Article shall be construed to exclude from the application of paragraph 1 of this Article any tax or surtax of Customs on any product or a substitute not produced in the importing State.

5. This Article does not apply to fees and similar charges commensurate with the cost of services rendered.

ARTICLE 16 EXPORT DRAWBACK

1. Each Member State may refuse to treat as of Common Market origin goods which benefit from export drawback allowed by Member States in which the goods have undergone the processes of production which form the basis of the claim to Common Market origin. In applying this paragraph, each Member State shall accord the same treatment to imports consigned from all other Member States.

2. For the purposes of this Article--

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

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

(c) "duties" means

(i) all charges on or in connection with importation, except fiscal charges to which Article 17 of this Annex applies; and

(ii) any protective element in such fiscal charges;

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

ARTICLE 17 REVENUE DUTIES AND INTERNAL TAXATION

1. Except as provided in Article 52 of Schedule IV to this Annex Member States shall not--

(a) apply directly or indirectly to imported goods any fiscal charges in excess of those applied directly or indirectly to like domestic goods, or otherwise apply such charges so as to protect like domestic goods; or

(b) apply fiscal charges to imported goods of a kind which they do not produce, or which they do not produce in substantial quantities, in such a way as to protect the domestic production of substitutes which enter into direct competition with them and which do not bear, directly or indirectly, in the country of importation, fiscal charges of equivalent incidence.

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

3. For the purposes of this Article and Schedule IV to this Annex --

(a) "fiscal charges" means revenue duties, internal taxes and other internal charges on goods;

(b) revenue duties" means customs duties and other similar charges applied primarily for the purpose of raising revenue; and "imported goods" means goods which are treated as of Common Market origin.

ARTICLE 18 PROHIBITION OF EXPORT DUTIES

1. Member States shall not apply any export duties.
2. Nothing in this Article shall preclude any Member State from taking such measures as are necessary to prevent evasion, by means of re-export of duties, which it applies to exports to territories outside the Common Market.
3. For the purposes of this Article, "export duties" means any duties or charges with equivalent effect imposed on or in connection with the exportation of goods from any Member State to a consignee in any other Member State.
4. Notwithstanding paragraph 1 of this Article, a Member State may for a period not exceeding 5 years from the date of entry into force of this Annex, apply to any commodity listed in Schedule V, export duties not exceeding those applied immediately before that date.
5. Any Member State that pursuant to paragraph 4 of this Article, applies export duties to any commodity listed in Schedule V shall notify the Council of such duties. The Council shall keep such export duties under review and may at any time by majority vote make recommendations to the Member State concerned so as to avoid as far as possible any adverse consequences on any other Member State.

ARTICLE 19 DUMPED AND SUBSIDIZED IMPORTS

1. Nothing in this Annex shall prevent any Member -State from taking action against dumped or subsidized imports that conforms with any other international obligations.
2. Any products which have been exported from one Member State to a consignee in another Member State and have not undergone any manufacturing process since exportation shall, when re-imported into the first Member State be admitted free of quantitative restrictions or measures with equivalent effect. Such products shall also be admitted free of customs duties or charges with equivalent effect except that any allowance by way of drawback, relief from duty or otherwise, given by reason of the exportation from the Member State, may be recovered.
3. If any industry in a Member State is suffering or is threatened with material injury as the result of the import of dumped or subsidized products into any other Member State, the latter Member State shall, at the request of the former Member State, examine the possibility of taking in conformity with any other international obligations action to remedy the injury or prevent the threatened injury.

ARTICLE 20 FREEDOM OF TRANSIT

1. Products imported into, or exported from, a Member State shall enjoy freedom of transit within the Common Market and shall only be subject to the payment of the normal rates for services rendered.
2. For the purposes of paragraph I of this Article, 'transit' means transit within the meaning of Article V. of the General Agreement on Tariffs and Trade.

ARTICLE 21
QUANTITATIVE IMPORT RESTRICTIONS

1. Except where otherwise provided in this Annex, and particularly in Articles 13, 23, 24, 28, 29 and 56, and in Schedules vii, viii, ix, x, and xi a Member State shall not apply any quantitative restrictions on the import of goods which are of Common Market Origin.

2. "Quantitative restrictions" means prohibitions or restrictions on imports into, or exports from, any other Member State as the case may be, whether made effective through quotas, import licences or other measures with equivalent effect, including administrative measures and requirements restricting imports or exports.

3. This Article shall not prevent any Member State from taking such measures as are necessary to prevent evasion of any prohibitions or restrictions which it applies to imports from outside the Common Market. In taking action in pursuance of the foregoing provisions, a Member State shall not accord to products imported from other Member States treatment less favourable than that accorded to products imported from third countries.

ARTICLE 22
QUANTITATIVE EXPORT RESTRICTIONS

1. Except where otherwise provided in this Annex and particularly in Articles 23 and 24 and in Schedules viii, ix and xi a Member State shall not apply any quantitative restrictions on exports to any other Member State.

2. This Article shall not prevent any Member State from taking such measures as are necessary to prevent evasion of any prohibitions or restrictions which it applies to exports outside the Common Market, provided that less favourable treatment is not granted to Member States than to countries outside the Common Market.

ARTICLE 23
GENERAL EXCEPTIONS

Nothing in Articles 21 and 22 of this Annex shall prevent the adoption or enforcement by any Member State of measures--

- (a) necessary to protect public morals;
- (b) necessary for the prevention of disorder or crime;
- (c) necessary to protect human, animal or plant life or health;
- (d) necessary to secure compliance with laws or regulations relating to customs enforcement, or to the classification, grading or marketing of goods, or to the operation of monopolies by means of state enterprise 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;
- (i) necessary to prevent or relieve critical shortages of foodstuffs in any exporting Member State; or
- (j) relating to conservation of exhaustible natural resources; but only if such

measures are not used as a means of arbitrary or unjustifiable discrimination between Member States, or as a disguised restriction on trade within the Common Market.

ARTICLE 24
SECURITY EXCEPTIONS

1. Nothing in this Annex shall prevent any Member State from taking action which it considers necessary for the protection of its essential security interests.
2. Nothing in this Annex shall prevent any Member State from taking action in pursuance of any obligations to which it is subject for the purpose of maintaining international peace and security.

ARTICLE 25
GOVERNMENT AIDS

1. Except as provided in this Annex, a Member State shall not maintain or introduce--
 - (a) the forms of aid to export of goods to any other part of the Common Market of the kinds which are described in Schedule VI to this Annex; or
 - (b) any other forms of aid, the main purpose or effect of which is to frustrate the benefits expected from such removal or absence of duties and quantitative restrictions as is required by this Annex.
2. If the application of any form of aid by a Member State, although not contrary to paragraph 1 (b) of this Article, nevertheless frustrates the benefits expected from such removal or absence of duties and quantitative restrictions as is required by this Annex, the Council may, by majority decision, authorize any Member State to suspend to the Member State which is applying the aid the application of such obligations under this Annex as the Council considers appropriate, provided always that the procedure set out in paragraphs 3 to 5 of Article 11 of this Annex has been followed.
3. This Article--
Shall not apply in respect of trade within the Common Market in any agricultural products until such time as Member States agree upon a Common Market policy with respect to the production and marketing, including the subsidization, of agricultural products.
4. The Council may amend the provisions of Schedule VI of this Annex.

ARTICLE 26
PUBLIC UNDERTAKINGS

1. Member States shall ensure the elimination in the practices of public undertakings, of
 - (a) measures the effect of which is to afford protection to domestic production which would be inconsistent with this Annex if achieved by means of a duty or charge with equivalent effect or quantitative restrictions or Government aid; or
 - (b) trade discrimination on grounds of territorial origin in so far as it frustrate the benefits expected from such removal or absence of duties and quantitative restrictions as is required by this Annex.
2. In so far as Article 25 of this Annex is relevant to the activities of public undertakings, that Article shall apply to them in the same way as it applies to other

enterprises.

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

4. For the purposes of this Article, 'public undertakings' means central, regional, or local government authorities, public enterprises and any other organization by means of which a Member State by law or in practice controls or appreciably influences imports from, or exports to any other part of the Common Market.

5. This Article shall not apply in respect of trade within the Common Market in agricultural products until such time as Member States agree upon a Common Market Policy with respect to the production and marketing, including the subsidization, of agricultural products.

ARTICLE 27 COOPERATION IN CUSTOMS ADMINISTRATION

Member States shall take appropriate measures, including arrangements regarding administrative co-operation to ensure that the provisions of Articles 14, 15, 16 and 17, and Schedules II, III and IV of this Annex are effectively and harmoniously applied, taking account of the need to reduce as far as possible the formalities imposed on trade and of the need to achieve mutually satisfactory solutions of any difficulties arising out of the operation of these provisions.

ARTICLE 28 IMPORT RESTRICTIONS ARISING FROM BALANCE OF PAYMENTS DIFFICULTIES

1. Notwithstanding Article 21 of this Annex a Member State may consistently with any international obligations to which it is subject introduce quantitative restrictions on imports for the purpose of safeguarding its balance of payments.

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

3. A Member State which has taken measures in accordance with paragraph I of this Article shall have regard to its obligations to resume the full application of Article 21 of this Annex and shall, as soon as its balance of payments situation improves, make proposals to the Council on the way in which this should be done. The Council, if it is not satisfied that these proposals are adequate, may recommend to Member States alternative arrangements to the same end. Decisions of the Council pursuant to this paragraph shall be made by majority vote.

ARTICLE 29 DIFFICULTIES IN PARTICULAR INDUSTRIES

1. If, in a Member State--

(a) any industry or particular sector of an industry experiences serious difficulties due to a substantial decrease in internal demand for a domestic product; or

(b) this decrease in demand is due to an increase in imports consigned from

other Member States as a result of the establishment of the Common Market, that Member State may, notwithstanding any other provisions of this Annex--

(i) limit those imports by means of quantitative restrictions to a rate not less than the rate of such imports during any period of 12 months which ended within 12 months of the date on which the restrictions came into force; the restrictions shall not be continued for a period longer than 18 months, unless the Council, by majority vote, authorize 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 vote authorize.

2. In applying measures in accordance with paragraph I of this Article a Member State shall give like treatment to imports consigned from all Member States.

3. A Member State applying restrictions in accordance with sub-paragraph (i) of paragraph 1 of this Article shall notify them to the Council, if possible, before they come into force. The Council may at any time consider these restrictions and may, by majority vote, make recommendations designed to moderate any damaging effect of those restrictions or to assist the Member State concerned to overcome its difficulties.

ARTICLE 30 RESTRICTIVE BUSINESS PRACTICES

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

(a) agreements between enterprises, decisions by associations of enterprises and concerted practices between enterprises which have as their object or result the prevention, restriction distortion of competition within the Common Market;

(b) actions by which one or more enterprises taken unfair advantage of a dominant position, within the Common Market 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 11 of this Annex the Council may, in any recommendation in accordance with paragraph 3 or in any decision in accordance with paragraph 4 of that Article, make provision for publication of a report on the circumstances of the matter.

3. (a) In the light of experience, the Council shall, as soon as practicable, consider whether further or different provisions are necessary to deal with the effect of restrictive business practices or dominant enterprises on the trade within the Common Market.

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

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

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

(iii) procedures for investigation; (iv) whether the right to initiate

inquiries should be conferred on the Council.

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

4. Member States undertake to introduce as soon as practicable uniform legislation for the control of restrictive practices by business enterprises giving particular attention to the practices referred to in paragraph I of this Article.

CHAPTER IV COMMON PROTECTIVE POLICY

ARTICLE 31 ESTABLISHMENT OF COMMON EXTERNAL TARIFF

1. Member States agree to establish and maintain a Common External Tariff in respect of all commodities imported from third countries in accordance with a plan and Schedule to be adopted by the Conference immediately upon the entry into force of this Annex, provided that:

(a) In so far as the Less Developed Countries, except Belize and Montserrat are concerned, their existing Tariffs under the East Caribbean Common Market Agreement shall be deemed as fulfilling their initial obligations in relation to the Common External Tariff of the Caribbean Common Market.

(b) Wherever the Plan and Schedule of rates in the existing customs tariff of the East Caribbean Common Market Agreement differ from those in the Common External Tariff of the Caribbean Common Market, the Plans and Schedules of rates in both the East Caribbean Common Market and the Caribbean Common Market Tariffs will be subject to annual review in the light of the prevailing economic situation of the Less Developed Countries for the purpose of determining the appropriate Plan and Schedule that will be introduced provided that the introduction of such a Plan and Schedule will commence not later than 1st August, 1977 and the phasing period will end not later than 1st August, 1981.

(c) In so far as Belize and Montserrat are concerned, their existing Tariffs on 1st May, 1974, shall be deemed as fulfilling their initial obligations in relation to the Common External Tariff of the Caribbean Common Market. They shall progressively phase their tariffs in accordance with the annual reviews mentioned in paragraph (b) of this proviso provided that in the case of Montserrat the introduction of the Plan and Schedule will commence not later than 1st August, 1981, and the phasing period will end not later than 1st August, 1985.

ARTICLE 32 OPERATION OF THE COMMON EXTERNAL TARIFF

1. Any alteration or suspension of the Common External Tariff on any item shall be decided by the Council by unanimous vote.

2. During the transitional period in respect of any item, a Member State may decide as a temporary measure to reduce or suspend a duty in its national tariff for the purpose of domestic price control provided that goods originating from Member States on which duties are payable are accorded treatment no less favourable. Any such action shall be promptly reported to the other Member States through the Secretariat. If any Member State so requests, the Council shall hold consultations on the matter and may by majority vote make such recommendations as it

considers appropriate to mitigate any damaging effects of such reduction or suspension of duty on the exports of the Member States concerned.

3. Where a commodity is not being produced in one or more Member States or is being produced but in insufficient quantities to satisfy the requirements of the Common Market, the Council may decide to authorize the reduction or suspension of the tariff in respect of imports of that commodity subject to such terms and conditions as it may decide, provided that in no case the commodity imported from third countries be accorded more favourable treatment than similar products produced by Member States.

4. Within two weeks of the coming into force of this Annex, every member State shall notify to the Council the duties applied on all goods imported from non-member countries immediately before the entry into force of this Annex.

5. Upon the expiration of the period of three years from the entry into force of the Common External Tariff the Council shall review such rates as are posing or as are likely to pose difficulties in their application.

ARTICLE 33 TREATMENT OF IMPORTS FROM THIRD COUNTRIES

1. During the transitional period, that is, until the 1st August, 1981, Member States individually or otherwise undertake to pursue such policies regarding quantitative restrictions on imports from third countries as would facilitate the implementation of a common protective policy for the Common Market as soon as practicable after the transitional period. The Council may make recommendations to Member States for this purpose.

2. As soon as possible after the entry into force of this Annex Member States shall notify to the Council all existing quantitative restrictions applied on imports from third countries. Any new quantitative restrictions shall be promptly notified to the Council.

3. The Council of Ministers shall keep under continuous review the application of quantitative restrictions by Member States whether on an individual, sub-group or Common Market basis and shall make such recommendations to Member States as it considers necessary.

ARTICLE 34 EXTERNAL TRADE POLICY

1. Member States shall seek a progressive co-ordination of their trade relations with third countries or groups of third countries.

2. Member States undertake to transmit to the Secretariat particulars of any trade or aid agreements entered into after the entry into force of this Annex.

CHAPTER V ESTABLISHMENT, SERVICES AND MOVEMENT OF CAPITAL

ARTICLE 35 ESTABLISHMENT

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

2. Member States shall not apply new restrictions in such a way that they conflict

with the principle set out in paragraph 1 of this Article.

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

4. The Council shall consider from time to time, whether further or different provisions are necessary to give effect to the principles set out in paragraph 1 of this Article.

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

6. For the purposes of this Article and Articles 36 and 38 of this Annex--

(a) a person shall be regarded as a national of a Member State if such person-

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

(iii) is a company or other legal person constituted in the Member State in conformity with the law thereof and which that State regards as belonging to it, provided that such company or other legal person has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity, within the Common Market and which is substantially owned and effectively controlled by persons falling under (i) and (ii) above.

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

ARTICLE 36 RIGHT TO PROVIDE SERVICES

1. Each Member State agrees as far as practicable to extend to persons belonging to other Member States preferential treatment over persons belonging to States outside the Common Market with regard to the provision of services.

2. For the purposes of this Article the term "services" shall be considered as services for remuneration provided that they are not governed by provisions relating to trade, the right of establishment or movement of capital and includes, in particular, activities of an industrial or commercial character, artisan activities and activities of the professions, excluding activities of employed persons.

ARTICLE 37 MOVEMENT OF CAPITAL

The Council shall examine ways and means for the introduction of a scheme for the regulated movement of capital within the Common Market, giving particular attention to the development needs of the Less Developed Countries and shall

recommend to Member States proposals for the establishment of such a scheme.

ARTICLE 38
SAVING IN RESPECT OF MOVEMENT OF PERSONS

Nothing in this Treaty shall be construed as requiring, or imposing any obligation on, a Member State to grant freedom of movement to persons into its territory whether or not such persons are nationals of other Member States of the Common Market.

CHAPTER VI
COORDINATION OF ECONOMIC POLICIES AND DEVELOPMENT PLANNING

ARTICLE 39
CONSULTATION ON ECONOMIC POLICIES

1. Member States recognize that the economic and financial policies of each of them affect the economies of other Member States and intend to pursue those policies in a manner which serves to promote the objectives of the Common Market. In particular but without prejudice to the generality of the foregoing, Member States shall seek as far as practicable to--

(i) co-ordinate their economic policies and for this purpose facilitate collaboration between appropriate ministries, administrative departments and agencies;

(ii) co-ordinate their statistical services in matters affecting the operation of the Common Market; and

(iii) co-ordinate their positions and presentations at all international economic, financial and trade meetings at which they are represented.

2. The Council may make recommendations to Member States on matters relating to those policies and on how best to achieve such co-ordination and collaboration.

ARTICLE 40
HARMONISATION OF FISCAL INCENTIVES

1. Member States shall seek to harmonize, such legislation and practices as directly affect fiscal incentives to industry.

2. Member States shall seek also to establish regimes for the harmonization of fiscal incentives to Agriculture and Tourism with appropriate differentials in favour of the Less Developed Countries.

3. Member States agree to study the possibility of approximating income tax systems and rates with respect to companies and individuals.

ARTICLE 41
INTRA-REGIONAL AND EXTRA-REGIONAL DOUBLE TAXATION AGREEMENTS

1. Member States shall approach their negotiations for Agreements for the avoidance of Double Taxation with countries outside the Common Market on the basis of a set of mutually agreed principles.

2. With a view to encouraging the regulated movement of capital within the Common Market, particularly to the Less Developed Countries, Member States agree to adopt among themselves Agreements for the Avoidance of Double Taxation.

ARTICLE 42
HARMONISATION OF LAWS

1. Member States recognise the desirability to harmonise as soon as practicable such provisions imposed by law or administrative practices as affect the establishment and operation of the Common Market in the following areas:

- (a) companies;
- (b) trade marks;
- (c) patents;
- (d) designs and copyrights;
- (e) industrial standards;
- (f) marks of origin;
- (g) labeling of food and drugs;
- (h) plant and animal quarantine restrictions;
- (i) restrictive business practices;
- (j) dumping and subsidization of exports.

2. The Council shall keep the provisions of this Article under review and may make recommendations for the achievement of this objective.

ARTICLE 43 MONETARY, PAYMENTS AND EXCHANGE RATE POLICIES

1. Member States undertake to permit within the Common Market freedom of payments on

- (a) current account and
- (b) capital account necessary to further the objectives of the Common Market.

2. Member States recognizing that exchange-rate stability as between themselves is necessary to promote the smooth functioning of the Common Market agree to--

- (a) a policy of continuing consultation and the fullest possible exchange of relevant information on monetary payments and exchange rate matters, and
- (b) to examine ways and means of harmonizing their monetary and exchange-rate and payments policies in the interest of the smooth functioning of the Common Market.

3. Member States further agree --

- (a) to the policy whereby through arrangements by their Central Banks or Monetary Authorities the notes and coins of other Member States shall be exchanged within their own States at official par value without exchange commission.
- (b) to develop arrangements for co-operation in other monetary matters including the operation of a clearing arrangement by their Central Monetary Authorities.

ARTICLE 44 OWNERSHIP AND CONTROL OF REGIONAL RESOURCES

1. Member States recognise the need for continuing inflows of extra-regional capital and the urgent necessity to promote development in the Less Developed Countries.

2. Member States shall keep under review the question of ownership and control of their resources, with a view to increasing the extent of national participation on their economies and working towards the adoption as far as possible of a common policy on foreign investment

ARTICLE 45
COORDINATION OF NATIONAL DEVELOPMENT PLANNING

1. Member States recognise the desirability of a long-term Common Market Perspective plan as a framework for co-ordinating their development efforts and agree to work jointly in the formulation of such a Plan.
2. In order to promote maximum complementarity between industries and economic sectors of Member States, each Member State agrees to consult with other Member States in drawing up its national medium-term operational development plans. Member States shall establish a Committee of Officials in charge of national planning agencies for the purpose of promoting collaboration in development planning.

ARTICLE 46
COMMON MARKET INDUSTRIAL PROGRAMMING

1. Member States undertake to promote a process of industrial development through industrial programming aimed at achieving the following objectives:
 - (a) the greater utilization of the raw materials of the Common Market;
 - (b) the creation of production linkages both within and between the national economies of the Common Market;
 - (c) to minimize product differentiation and achieve economies of large scale production, consistent with the limitation of market size;
 - (d) the encouragement of greater efficiency in industrial production;
 - (e) the promotion of exports to markets both within and outside the Common Market;
 - (f) an equitable distribution of the benefits of industrialization paying particular attention to the need to locate more industries in the Less Developed States.
2. The Council may make recommendations from time to time to promote achievement of the objectives stated in paragraph I of this Article.

ARTICLE 47
JOINT DEVELOPMENT OF NATURAL RESOURCES

1. Member States agree to a policy of regular exchange of information on their natural resources with a view to the development of joint projects for the increased utilisation of these resources within the Common Market and to collaborate in promoting research in these areas.
2. With a view to facilitating negotiations with mining companies, Member States agree to exchange information on exploration leases, exploitation licences and on taxation of mining companies.
3. The Council advised by the Standing Committee of Ministers responsible for Mines and Natural Resources may make recommendations for achieving the objectives stated in paragraphs 1 and 2 of this Article.

ARTICLE 48
MARKETING OF AGRICULTURAL PRODUCTS

1. Member States agree to work towards the rationalization of trade within the Common Market of certain selected agricultural products having special regard to

the agricultural development of the Less Developed Countries.

2. In pursuance of this objective Member States agree to arrangements for the marketing of oils and fats and other agricultural products as set out in Schedules VII, VIII and IX to this Annex.

3. The Council may make recommendations for the development of agricultural trade between Member States.

ARTICLE 49 RATIONALIZATION OF AGRICULTURAL PRODUCTION

1. Member States agree to adopt a scheme for the rationalization of agricultural production within the Common Market with a view to promoting complementarity in national agricultural programmes and providing special opportunities for the development of agriculture in the Less Developed Countries.

2. The Scheme shall have the following objectives:

(a) the development of a regional plan for the integration of agricultural development in the Common Market;

(b) the achievement of the optimum utilization of agricultural resources;

(c) the improvement of the efficiency of agricultural production in order to increase the supply of agricultural products for--

(i) domestic consumption;

(ii) export to regional as well as extra-regional markets; and

(iii) inputs for agro-based industries.

(d) replacement of imports on a regional basis;

(e) increasing the income and standard of living of the rural population;

(f) contributing to the achievement of full employment for the peoples of the Common Market;

(g) the provision of greater opportunities to the Less Developed Countries for the expansion of agricultural production for export to markets within and outside the Common Market.

3. Member States recognise the desirability of joint action in the exporting of non-traditional agricultural products to countries outside the Common Market and agree to the promotion of schemes towards this objective.

4. With regard to the production of non-traditional agricultural products, Member States shall pursue a policy of collaboration with a view to improving productivity and promoting a more efficient allocation of the resources of the Common Market giving special consideration to the need for increasing production in the Less Developed Countries.

5. The Council shall keep this Article under review and shall make recommendations to Member States for achieving its objectives.

ARTICLE 50 COOPERATION IN TOURISM

1. Member States agree to collaborate in the promotion and development of the

tourist industry within the Common Market.

**CHAPTER VII
SPECIAL REGIME FOR THE LESS DEVELOPED COUNTRIES**

**ARTICLE 51
PURPOSE OF THE CHAPTER**

The provisions of this Chapter shall have effect for the purposes of establishing within the frame-work of this Annex a special regime for the Less Developed Countries.

**ARTICLE 52
IMPORT DUTIES, REVENUE DUTIES AND INTERNAL TAXATION**

For the purposes of Articles 15 and 17 of this Annex the special arrangements contained in Schedules iii and iv to this Annex concerning import duties, revenue duties and internal taxation shall apply to the Less Developed Countries.

**ARTICLE 53
COMMON MARKET ORIGIN**

Member States agree that in the compilation of the process list pursuant to paragraph 1(b) of Article 14 of this Annex, the special needs of the Less Developed Countries shall be taken into account.

**ARTICLE 54
HARMONISATION OF FISCAL INCENTIVES**

Member States agree that in the establishment of the Scheme for Harmonisation of Fiscal Incentives to Industry, provided for in Article 40 of this Annex, the special needs of the Less Developed Countries shall be taken into account.

**ARTICLE 55
THE COMMON EXTERNAL TARIFF AND COMMON PROTECTIVE POLICY**

Member States agree that in the establishment of the Scheme for a Common External Tariff provided for in Article 31 of this Annex, the special needs of the Less Developed Countries shall be taken into account.

**ARTICLE 56
PROMOTION OF INDUSTRIAL DEVELOPMENT IN THE LESS DEVELOPED COUNTRIES**

1. Upon any application made in that behalf by the Less Developed Countries the Council may, if necessary, as a temporary measure in order to promote the development of an industry in any of those States, authorise by majority decision such States to suspend Common Market Tariff treatment of any description of imports eligible therefor on grounds of production in the other Member States
2. Upon any application made in that behalf by the Less Developed Countries the Council may, if necessary, as a temporary measure in order to promote the development of an industry in any of those States, authorise by majority decision such States to impose quantitative restrictions on like imports from the other Member States.
3. In the light of the special position of Barbados that State may; in relation to trade with the Less Developed Countries, during the period for which the authorisations referred to in paragraphs 1 and 2 of this Article are in force, suspend Common Market tariff treatment of, or apply quantitative restrictions on, the like description of imports from the Less Developed Countries.

4. The Council may, in taking decisions pursuant to paragraphs I and 2 of this Article, impose terms and conditions to which such authorisation shall be subject.

5. For the purposes of this Article a majority means a decision supported by the affirmative votes of all the Less Developed Countries and at least two of the More Developed Countries.

ARTICLE 57 GOVERNMENT AIDS

Paragraph I (a) of Article 25 of this Annex shall not apply to exports from a Less Developed Country except where such exports are consigned to Barbados.

ARTICLE 58 PUBLIC UNDERTAKING

Paragraph I (a) of Article 26 of this Annex shall not apply to the Less Developed Countries.

ARTICLE 59 FINANCIAL ASSISTANCE FROM MORE DEVELOPED COUNTRIES

1. With a view to promoting the flow of investment capital to the Less Developed Countries, the More Developed Countries agree to co-operate in--

(a) facilitating, whether by means of private investment capital or otherwise, joint ventures in those States;

(b) negotiating double taxation agreements in respect of the income from investments in the Less Developed Countries by residents of other Member States, and (c) facilitating the flow of loan capital to the Less Developed Countries.

2. In furtherance of the objectives stated in paragraph I above, primary consideration should be given to ventures which are substantially owned and effectively controlled by nationals of Member States within the meaning of Article 35 of this Annex.

3. Member States agree that in order to promote the development of industries in the Less Developed Countries an appropriate investment institution shall be established.

ARTICLE 60 USE OF TECHNOLOGICAL AND RESEARCH FACILITIES IN MORE DEVELOPED COUNTRIES

The More Developed Countries undertake to provide opportunities for the use of their technological and research facilities by the Less Developed Countries.

ARTICLE 61 ADDITIONAL SPECIAL ARRANGEMENTS FOR BELIZE

Without prejudice to any other provision of this Chapter, the provisions of Schedule XI to this Annex shall apply for the purpose of establishing additional special arrangements in regard to the participation of Belize in the Common Market.

ARTICLE 62 REVIEW OF MECHANISMS FOR THE LESS DEVELOPED COUNTRIES

The Council shall review annually the need for strengthening existing mechanisms or introducing new ones to provide greater benefits to the Less Developed Countries and shall submit a Report thereon to the Heads of Government

Conference.

CHAPTER VIII GENERAL AND FINAL PROVISIONS

ARTICLE 63 LEGAL CAPACITY

1. The Common Market shall have international juridical personality.
2. Each Member State shall, in its territory, accord to the Common Market the most extensive legal capacity accorded to legal persons under its municipal law including the capacity to acquire and transfer movable and immovable property and to sue and be sued in its own name. In any legal proceedings the Common Market shall be represented by the Secretary-General of the Secretariat.
3. Each Member State hereby agrees to take such action as is necessary to make effective in its territory the provisions of this Article and shall promptly inform the Secretariat of such action.

ARTICLE 64 PRIVILEGES AND IMMUNITIES

1. The privileges and immunities to be recognised and granted by the Member States in connection with the Common Market shall be laid down in a Protocol to this Annex.
2. The Common Market shall conclude with the Government of the Member State in which its on with the Common Market privileges and immunities to be recognized and granted in connection with the Common Market.

ARTICLE 65 ACCESSION

1. A State, mentioned in paragraph 1 (b) of Article 2 of this Annex may become a Member of the Common Market on such terms and conditions as the Conference may determine.
2. Any such State shall deposit on or before a date appointed by the Conference an instrument of accession with the Secretariat which shall transmit certified copies to the Government of each Member State.
3. Upon such deposit the State shall become a Member of the Common Market on the appointed date.

ARTICLE 66 AMENDMENTS

1. Except where this Annex provides otherwise, amendments thereto shall enter into force when they have been approved by the Council and ratified by all Member States in accordance with their respective constitutional procedures.
2. Instruments of ratification shall be deposited with the Secretariat which shall transmit certified copies thereof to each Member State.

ARTICLE 67 RECOGNITION OF EXISTING INTEGRATION AGREEMENT WITHIN THE COMMON MARKET

Nothing in this Annex shall affect any decisions or things done under the ECCM Agreement immediately before the coming into force of this Annex or the continued application and development of that Agreement to the extent that the objectives of

that Agreement are not achieved in the application of the objectives of this Annex, provided such application or development does not conflict with the obligations under this Annex of the Member States which are parties to that Agreement.

ARTICLE 68 PARTICIPATION IN OTHER ARRANGEMENTS

Nothing in this Annex shall preclude any Member State from participating in other arrangements to the extent that those arrangements are not incompatible with the obligations of Member States under this Annex.

ARTICLE 69 WITHDRAWAL

1. A Member State may withdraw from the Common Market by giving notice in writing to the Secretariat, and the Secretariat shall promptly notify the other Member States. Such withdrawal shall take effect twelve (12) months after the notice is received by the Secretariat.
2. A Member State so withdrawing undertakes to honour any financial obligations duly assumed during its membership of the Common Market.
3. A Member State that withdraws from the Treaty in accordance with Article 27 thereof shall, if a member of the Common Market be deemed to have withdrawn from the Common Market with effect from the expiration of the time limited by the said Article 27.

ARTICLE 70 RELATIONS WITH OTHER STATES AND INTERNATIONAL ORGANIZATIONS

1. The Council may, on behalf of the Common Market, negotiate Agreements with Member States, non-member States and other International Organisations in order to promote the objectives of the Common Market.
2. Such agreements, however, shall be subject to ratification by the Conference.

ARTICLE 71 TRANSITIONAL PROVISIONS

On entry into force of this Annex in accordance with the provisions of Article 24 of the Treaty, the Agreement establishing the Caribbean Free Trade Association done at Dickenson-Bay, Antigua, on the Fifteenth day of December, 1965 and the Supplementary Agreement under Article 31 (3) of the former Agreement done at Georgetown, Guyana, on the Fifteenth day of March, 1968, and at St. John's, Antigua, on the Eighteenth day of March, 1968 shall be superceded by the provisions of this Annex as between the Parties to whom the provisions of this Annex apply.

ARTICLE 72 ASSOCIATE MEMBERSHIP

1. Any State which in the opinion of the Conference is qualified for membership of the Common Market in accordance with Article 2. I (b) of this Annex may, upon application to the Council for associate membership of the Common Market, be admitted as an associate member of the Common Market in accordance with paragraph 2 of this Article.
2. On the application made under paragraph I of this Article the Conference shall determine the conditions under which the applicant State may be associated with the Common Market.

ARTICLE 73

STATUS OF SCHEDULES

Schedules to this Annex shall form an integral part thereof.

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