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## **PROTOCOL AMENDING THE TREATY ESTABLISHING THE CARIBBEAN COMMUNITY (PROTOCOL III: INDUSTRIAL POLICY)**

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### **PREAMBLE**

The Parties to the Treaty Establishing the Caribbean Community (hereinafter referred to as "the Member States"),

Convinced that market-driven industrial development in the production of goods and services is essential to the economic and social development of the peoples of the Community;

Conscious that trade liberalisation and globalisation have operated to underscore the importance of international competitiveness as an essential condition of survival in the national, regional and international market place;

Recognising the potential of micro, small, and medium enterprise development to contribute to the expansion and viability of national economies of the Community;

Recognising further the importance of large enterprises for achieving economies of scale in the production process;

Mindful of the imperatives of research and development and technology transfer and adaptation for the competitiveness of Community enterprises on a sustainable basis;

Desirous of establishing and maintaining a sound and stable macro-economic environment that is conducive to investment, including cross-border investments, and the competitive production of goods and services in the Community;

Aware that differences in resource endowment and in the levels of economic development of Member States, may affect the implementation of the Community Industrial Policy;

Determined to promote and establish a sustainable balance between industrial development and environmental integrity;

Have agreed as follows:

### **ARTICLE I Use of Terms**

1. In this Protocol unless the context otherwise requires:

**"Community"** includes the Caribbean Single Market and Economy to be established by the Protocols amending or replacing the Caribbean Common Market Annex to the Treaty, as amended by Protocol I;

**"the Council for Finance and Planning"** means the Organ of the Community so named in Article 6(2)(d) of the Treaty, as amended by Protocol I;

**"the Council for Foreign and Community Relations"** means the Organ so named in Article 6(2)(b) of the Treaty, as amended by Protocol I;

**"the Council for Human and Social Development"** means the Organ of the Community so named in Article 6(2)(c) of the Treaty, as amended by Protocol I;

**"the Council for Trade and Economic Development"** means the Organ of the Community so named in Article 6(2)(a) of the Treaty, as amended by Protocol I;

**"economic enterprises"** means economic enterprises within the meaning of Article 35a(5)(b) of the Common Market Annex to the Treaty, as amended by the Protocol amending the Treaty to provide for rights of establishment, provision of services, movement of capital;

**"Treaty"** means the Treaty establishing the Caribbean Community signed at Chaguaramas on the 4th day of July 1973 and includes any amendments thereto which take effect either provisionally or definitively (herein referred to as "the Treaty").

2. In this Protocol a reference to Protocol I is a reference to the Protocol amending the Treaty and signed at Antigua and Barbuda on 19 February, 1997.

## **ARTICLE II**

### **Amendment**

The provisions of this Protocol shall replace the Articles in Chapter Six of the Caribbean Common Market Annex (except Articles 43,48 and 49) to the Treaty and shall take effect as hereinafter provided.

## **ARTICLE III**

Replace Article 39 with the following:

### **"Article 39 Objectives of the Community Industrial Policy"**

1. The goal of the Community Industrial Policy shall be market-led, internationally competitive and sustainable production of goods and services for the promotion of the Region's economic and social development.
2. In fulfilment of the goal set out in paragraph 1 of this Article, the Community shall pursue

the following objectives:

- a. cross-border employment of natural resources, human resources, capital, technology and management capabilities for the production of goods and services on a sustainable basis;
- b. linkages among economic sectors and enterprises within and among Member States of the Single Market and Economy;
- c. regional economic enterprises capable of achieving scales of production to facilitate successful competition in domestic and extra-regional markets;
- d. a viable micro and small economic enterprise sector;
- e. enhanced and diversified production of goods and services for both export and domestic markets;
- f. public and private sector collaboration in order to secure market-led production of goods and services;
- g. industrial production on an environmentally sustainable basis;
- h. balanced economic and social development in the CARICOM Single Market and Economy bearing in mind the special needs of disadvantaged countries, regions and sectors within the meaning of Article I of the Protocol amending the Treaty providing for disadvantaged countries, regions and sectors; and
- i. stable industrial relations."

#### **ARTICLE IV**

Insert new Article to read as follows:

##### **"Article 39a Implementation of Community Industrial Policy**

1. In order to achieve the objectives of its industrial policy, the Community shall promote, **inter alia**:
  - a. the co-ordination of national industrial policies of Member States;
  - b. the establishment and maintenance of an investment-friendly environment, including a facilitative administrative process;
  - c. the diversification of the products and markets for goods and services with a view to increasing the range and value of exports;
  - d. the organisation and development of product and factor markets;
  - e. the development of required institutional, legal, technical, financial, administrative and other support for the establishment or development of micro and small economic enterprises throughout the Community; and
  - f. in collaboration with the social partners, the advancement of production integration.
2. The Community shall establish a special regime for disadvantaged countries, regions and sectors.
3. The Council for Trade and Economic Development (hereinafter referred to as "the COTED") shall, in collaboration with competent organs and bodies of the Community and the private sector, establish criteria for according special consideration to particular industries and sectors. Such criteria shall include, in particular, arrangements relating to the prospects of the industry for successful production integration.

4. The COTED shall collaborate with competent agencies to assist Member States in designing appropriate policy instruments to support industries, which may include effective export promotion policies, financing policies, incentives and technology policies.
5. In implementing the Community Industrial Policy, the COTED shall have regard to the provisions of the Treaty relating to environmental protection.
6. Member States shall undertake to establish and maintain appropriate macro-economic policies supportive of efficient production in the Community. In addition, they shall undertake to put in place arrangements for, **inter alia** :
  - a. effective payment mechanisms;
  - b. arrangements for the avoidance of double taxation;
  - c. harmonised legislation in relevant areas;
  - d. the elimination of bureaucratic impediments to deployment of investments in industrial enterprises;
  - e. the improvement of infrastructure and co-operation in the areas of air and maritime transport;
  - f. communications systems; and
  - g. disputes settlement.
7. In order to facilitate the implementation of the Community Industrial Policy, the COTED shall, in collaboration with competent organs and agencies:
  - a. develop strategies for the development and dissemination of market information and appropriate mechanisms to facilitate acquisition, storage and retrieval of such information;
  - b. promote the establishment and development of capital markets in Member States; and
  - c. encourage Member States to establish and develop export markets, especially in non-traditional sectors, through the development of sector-specific incentives and appropriate policy instruments.
8. For the purpose of this Article, "production integration" includes:
  - a. the direct organisation of production in more than one Member State by a single economic enterprise;
  - b. complementary production involving collaboration among several economic enterprises operating in one or more Member States to produce and use required inputs in the production chain; and
  - c. co-operation among economic enterprises in areas such as purchasing, marketing, and research and development."

## **ARTICLE V**

Replace Article 40 with the following:

### **"Article 40 Micro and Small Economic Enterprise Development**

1. The Community shall adopt appropriate policy measures to encourage the development of competitive micro and small economic enterprises in Member States.
2. Without prejudice to the generality of the foregoing, the competent organ shall encourage policy initiatives and the establishment of effective programmes to foster a facilitative

legal, economic, and administrative framework in Member States to enhance micro and small economic enterprise development, and shall promote:

- a. the development of the capacities of national and regional support agencies for micro and small economic enterprises, including the creation of entrepreneurial centres, by organising technical assistance inclusive of planning, delivery and evaluation of support services to the sector;
  - b. access to, improvement in the quality of, and opportunities for training and education in areas such as technical skills, entrepreneurial competence and business management for micro and small entrepreneurs;
  - c. access by micro and small economic enterprises to the technical assistance provided by the support agencies;
  - d. the establishment, development or modernising, as the case may require, of financial institutions to provide, to micro and small economic enterprises, services by way of appropriate and innovative instruments;
  - e. innovation within the micro and small enterprise sector; and
  - f. the creation of, and access to, trade and technology information networks.
3. For the purposes of this Article, micro and small economic enterprises shall be deemed to be enterprises within the meaning of Article 35b of this Treaty and which satisfy such other criteria as may be determined by the competent authorities.

## **ARTICLE VI**

Replace Article 41 with the following:

### **"Article 41 Development of the Services Sector"**

1. The COTED shall, in collaboration with the appropriate Councils, promote the development of the services sector in the Community in order to stimulate economic complementarities among, and accelerate economic development in, Member States. In particular, the COTED shall promote measures to achieve:
  - a. increased investment in services;
  - b. increased volume, value and range of trade in services within the Community and with third States;
  - c. competitiveness in the modes of delivering services; and
  - d. enhanced enterprise and infrastructural development, including that of micro and small service enterprises.
2. In order to achieve the objectives set out in paragraph 1, Member States shall, through the appropriate Councils, collaborate in:
  - a. designing programmes for the development of human resources to achieve competitiveness in the provision of services;
  - b. establishing a regime of incentives for the development of and trade in services; and
  - c. adopting measures to promote the establishment of an appropriate institutional and administrative framework and, in collaboration with the Legal Affairs Committee, promote the establishment of the appropriate legal framework to support the services sector in the Community.

3. In the establishment of programmes and policies of the Community for the development of the services sector, the relevant Councils shall give priority to:
  - a. the efficient provision of infrastructural services including telecommunications, road, air, maritime and riverain transportation, statistical data generation and financial services;
  - b. the development of capacity-enhancing services including education services, research and development services;
  - c. the development of services which enhance cross-sector competitiveness;
  - d. the facilitation of cross-border provision of services which enhance the competitiveness of the services sector; and
  - e. the development of informatics and other knowledge-based services."

## **ARTICLE VII**

### **Article 42 Sustainable Tourism Development**

1. The Community shall, in collaboration with competent international organisations, formulate proposals for sustainable tourism development. These proposals shall recognise the importance of the tourism sub-sector to the economic development of the Region, and the need to conserve its cultural and natural resources and to maintain a balance between a healthy ecology and economic development.
2. The programme for sustainable tourism shall have the following objectives:
  - a. an enhanced image for the Region as a tourist destination;
  - b. a diversified tourism product of a consistently high quality;
  - c. an expanded market-base;
  - d. education programmes designed to ensure that appropriate practices are pursued by service-providers;
  - e. linkages with other sectors in the economy;
  - f. conservation of the natural and cultural resources of the Region through proper management; and
  - g. appropriate infrastructure and other services in support of tourism, considering the natural and social carrying-capacity of Member States."

## **ARTICLE VIII**

Replace Article 44 with the following:

### **"Article 43 Research and Development**

1. The COTED shall promote market-led research, technological development and adaptation of appropriate technology in the Community in order to support the production, on a sustainable basis, of goods and services in Member States with a view to diversifying such production and enhancing its international competitiveness.
2. In the discharge of its mandate set out in paragraph 1 of this Article, the COTED shall adopt measures to encourage, inter alia, inventions and innovation, and acquisition, transfer, assimilation, adaptation and diffusion of technologies in the Community. Without

prejudice to the generality of the foregoing, the COTED shall:

- a. encourage public and private sector agencies, research establishments and tertiary institutions in their research and technological development activities and assist in identifying sources of funding for such activities;
- b. promote co-operation in research and technological development among Member States and with third States and competent international organisations;
- c. facilitate co-operation:
  - i. in training;
  - ii. in the exchange of scientific and technical information among competent institutions;
  - iii. in the free movement of researchers in the Community;
  - iv. among private sector enterprises to integrate the results of research and development in the production process;
  - v. develop and implement technological policies and strategies, having due regard for the importance of technology management and protection of intellectual property rights;
  - vi. facilitate access by Community nationals to technological and research facilities of Member States; and
  - vii. promote the development of technology extension services."

## **ARTICLE IX**

Insert new Article to read as follows:

### **"Article 44 Protection of Intellectual Property Rights**

The COTED shall promote the protection of intellectual property rights within the Community by, **inter alia**:

- a. the strengthening of regimes for the protection of intellectual property rights and the simplification of registration procedures in Member States;
- b. the establishment of a regional administration for patents, trademarks and copyright;
- c. the identification and establishment, by Member States of mechanisms to ensure:
  - i. the use of protected works and industrial property for the enhanced benefit of Member States;
  - ii. the preservation of indigenous Caribbean culture; and
  - iii. the legal protection of the expressions of folklore, other traditional knowledge and national heritage, particularly of indigenous populations in the Community;
- d. increased dissemination and use of patent documentation as a source of technological information;
- e. public education;
- f. measures to prevent the abuse of intellectual property rights by rights-holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology; and
- g. participation by Member States in international regimes for the protection of intellectual property rights."

## ARTICLE X

Replace Article 45 with the following:

### "Article 45 Human Resource Development

1. Without prejudice to any other provision of this Treaty relating to human resource development, the COTED shall, in collaboration with the Council for Human and Social Development (hereinafter referred to as "the COHSOD"), adopt measures to develop the Community's human resources which will, **inter alia**, support its thrust toward international competitiveness in the development, production and delivery of goods and services.
2. The measures referred to in paragraph 1 of this Article shall be designed to address the economic, social and cultural aspects of human resource development, and shall include the following:
  - a. development of programmes that will assist Community nationals in engendering the attitudes and acquiring the competence to function effectively;
  - b. development of the skills and attitudes required to foster a culture of entrepreneurship;
  - c. establishing and strengthening educational and training institutions for formal and informal modes of delivery and alternative modes for distance education;
  - d. development of industry-oriented curricula designed to improve the competitiveness of regional industries; and
  - e. promotion of multi-lingual skills at all levels for general education, with particular emphasis on the needs of the services sector."

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