

PROTOCOL AMENDING THE TREATY ESTABLISHING THE CARIBBEAN COMMUNITY

(PROTOCOL VII: DISADVANTAGED COUNTRIES, REGIONS AND SECTORS)

PREAMBLE

The Parties to the Treaty Establishing the Caribbean Community (hereinafter called the Member States),

Desirous that the deepening of the regional integration process by the establishment of the CARICOM Single Market and Economy should result in an improved standard of living for all nationals of the Caribbean Community (hereinafter called the Community);

Recognising that some Member States, particularly the Less Developed Countries, are entering the CARICOM Single Market and Economy at a disadvantage by reason of the size, structure and vulnerability of their economies;

Recognising also that the operation of the CARICOM Single Market and Economy will create dislocation in some countries, regions and sectors within the Community;

Aware that persistence of disadvantage, however arising, may impact adversely on economic and social cohesion in the Community;

Bearing in mind that with increased competition, both regionally and internationally, economies and economic enterprises would need to achieve enhanced levels of competitiveness;

Determined to establish effective measures, programmes and mechanisms to assist disadvantaged countries, regions and sectors;

Conscious that disadvantaged countries, regions and sectors will require a transitional period to facilitate adjustment to competition in the CARICOM Single Market and Economy,

Have agreed as follows:

PART ONE: PRELIMINARY

ARTICLE I: Use of Terms

1. In this Protocol, unless the context otherwise requires:

"Community" includes the CARICOM Single Market and Economy to be established by the Protocols amending or replacing the Caribbean Common Market Annex to the Treaty;

"Community Council of Ministers" (hereinafter referred to as the Community Council) means the Organ of the Community so named in Article 6(1)(b) of the Treaty;

"Community treatment" means the access of goods which are of Community origin to the markets of Member States without the application of import duties or quantitative restrictions;

"Conference" means the Conference of Heads of Government of the Community;

"Council for Finance and Planning" means the Organ of the Community so named in Article 6(2)(d) of the Treaty;

"Council for Trade and Economic Development" means the Organ of the Community so named in Article 6(2)(a) of the Treaty;

"disadvantaged countries" means:

- a. the Less Developed Countries within the meaning of Article 3 of the Treaty; or
- b. Member States that may require special support measures of a transitional or temporary nature by reason of:
 1. impairment of resources resulting from natural disasters; or
 2. the adverse impact of the operation of the CARICOM Single Market and Economy on their economies; or
 3. temporary low levels of economic development; or
 - iv. being a Highly-Indebted Poor Country designated as such by the competent inter-governmental organisation.

"disadvantaged regions" means:

- a. regions within Member States experiencing economic dislocation from the operation of the CARICOM Single Market and Economy; or
2. regions that may require special support measures of a transitional or temporary nature by reason of:
 - i. impairment of resources resulting from natural disasters; or
 - ii. temporary low levels of economic development;

"disadvantaged sectors" means:

- a. sectors of the economies of Member States in which economic enterprises experience dislocation from the operation of the CARICOM Single Market and Economy; or
- b. sectors that may require special support measures of a transitional or temporary nature by reason of natural disasters, whereby the loss in the sector causes social and economic

disorder;

"economic enterprises" means economic enterprises within the meaning of Article 35a(5)(b) of the Caribbean Common Market Annex to the Treaty, as amended by Protocol II;

"Secretary-General" means the Secretary-General of the Community;

"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 (hereinafter 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.
3. In this Protocol a reference to Protocol II is a reference to the Protocol Amending the Treaty to provide for the Rights of Establishment, Provision of Services and Movement of Capital.

ARTICLE II Amendment

The provisions of this Protocol shall replace Chapter Seven of the Caribbean Common Market Annex to the Treaty and take effect as hereinafter provided.

ARTICLE III Replace Article 51 with the following:

Article 5: Scope of Application

1. The provisions of this Protocol shall have effect for the purpose of establishing a regime for disadvantaged countries, regions or sectors within the framework of the Treaty as well as a special regime for the Less Developed Countries in order to enhance their prospects for successful competition within the Community, and redress, to the extent possible, any negative impact of the establishment of the CSME.
2. As soon as practicable after the entry into force or provisional application of this Protocol, as the case may be, the Conference shall, on the recommendation of the Community Council and in accordance with Article 1, designate disadvantaged countries, regions and sectors and may, from time to time, make such further designation or terminate such designation as circumstances warrant.
3. Wherever in this Treaty reference is made to disadvantaged countries, regions and sectors or to the Less Developed Countries, the Organs of the Community shall take the measures required to give effect to the spirit and intent of Protocol VII.

ARTICLE IV Replace Article 52 with the following:

Article 52: Objective of the Regimes

1. The objective of the regimes mentioned in Article 51 is to assist the disadvantaged countries, regions and sectors towards becoming economically viable and competitive by

appropriate interventions of a transitional or temporary nature.

3. The interventions referred to in paragraph 1 of this Article may include:
 - a. technical and financial assistance to address economic dislocation arising from the operation of the CARICOM Single Market and Economy;
 - b. special measures to attract investment and industries;
 - c. transitional or temporary arrangements to ameliorate or arrest adverse economic and social impact arising from the operation of the CARICOM Single Market and Economy;
 - d. special measures to assist industries to become efficient and competitive;
 - e. assistance intended to achieve structural diversification and infrastructural development;
 - f. assistance to economic enterprises disadvantaged by the removal of intraregional barriers;
 - g. the establishment of mechanisms to monitor, and assist in the discharge of, obligations assumed under the Treaty and other international trade agreements.

ARTICLE V: Replace Article 53 with the following:

Article 53: Implementation of Measures

1. Subject to the authority of the Conference, the Council for Trade and Economic Development (COTED) and the Council for Finance and Planning (COFAP), as appropriate, shall establish, administer and monitor the measures identified in Article IV of this Protocol.

ARTICLE VI: Add new Article to read as follows:

Article 54: Review of Measures

1. The Community Council shall review, as appropriate, the effectiveness of measures taken pursuant to this Protocol and take such action as may be necessary to achieve the objective of the Protocol, and shall submit a report thereon to the Conference.
2. The review shall include an examination of relevant programmes and support measures in order to determine their efficacy as a basis for their termination or modification as the case may be.

PART TWO:

**REGIME FOR DISADVANTAGED COUNTRIES,
REGIONS AND SECTORS**

ARTICLE VII Replace Article 54 with the following:

Article 55: Measures to Redress Disadvantage Arising from Economic Dislocation

1. Member States agree that where economic dislocation arising from the operation of the CSME occurs, and notwithstanding any provisions to the contrary in the Treaty, the COTED may, as the case may require on a temporary basis and subject to Article V, adopt effective measures to arrest or mitigate adverse effects on economic activity. Such measures may include the grant of incentives to address the dislocation and shall be without prejudice to any incentives provided for in Articles IV and XIV of Protocol III (Protocol Amending the Treaty: Industrial Policy).
2. Notwithstanding any provisions to the contrary in the Treaty, the measures mentioned in this Article may, where necessary, provide for temporary derogations from rights and obligations set out in the Treaty.
3. The COTED shall periodically examine the impact of the measures mentioned in paragraph 2 with a view to determining their adequacy and establishing a time-frame for their discontinuance.
4. Member States shall co-operate with the Community Organs in implementing the measures mentioned in paragraph 2 of this Article and shall take the action required to secure compliance therewith.

Article 56: Promotion of Investment

The Council for Finance and Planning (COFAP) shall promote investment in disadvantaged countries by, **inter alia**, facilitating:

- a. the establishment of joint ventures among nationals of disadvantaged countries as well as between nationals of disadvantaged countries and nationals of other Member States;
- b. the establishment of joint ventures between nationals of disadvantaged countries and nationals of third countries;
- c. investment for economic diversification including diversification of the agricultural sector;
- d. research, development and the transfer of technology in the development of disadvantaged countries; and
- e. capital flows from other Member States to disadvantaged countries through the conclusion of double taxation agreements and appropriate policy instruments.

ARTICLE IX Replace Article 57 with the following:

Article 57: Measures Relating to the Services Sector

1. The COTED, in establishing the programme for removal of restrictions by Member States on the provision of services in the Community mentioned in paragraph 2 of Article 36a of Protocol II shall give due consideration to the peculiar economic vulnerability of

disadvantaged countries, bearing in mind Article 38c of Protocol II.

2. Without prejudice to the generality of the provisions set out in paragraph 1 of this Article, the COTED shall, in establishing the said programme, determine in respect of disadvantaged countries:
 - a. a list of services in respect of which national treatment may not be applied for a specified period of time;
 - b. the manner in which restrictions on services not mentioned in sub-paragraph (a) of this paragraph shall be removed:

Provided that such disadvantaged countries shall accord Member States rights no more restrictive than those accorded to other parties of the WTO under the General Agreement on Trade in Services (GATS).

ARTICLE X Replace Article 58 with the following:

Article 58: Measures Relating to the Right of Establishment

1. The COTED shall take appropriate measures to ensure that, in establishing the programme for the removal of restrictions by Member States on the right of establishment in the Community mentioned in paragraph 3 of Article 35c of Protocol II, the peculiar economic vulnerability of disadvantaged countries in the Community is taken into account, bearing in mind Article 38c of Protocol II.
2. Without prejudice to the generality of the provisions of paragraph 1 of this Article, the COTED shall, in establishing the said programme, determine in respect of disadvantaged countries:
 - a. a list of economic activities in respect of which national treatment may not be accorded to persons exercising the right of establishment for a specified period of time;
 - b. the manner in which restrictions on the right of establishment in respect of economic activities not mentioned in sub-paragraph (a) of this paragraph shall be removed:

Provided that such disadvantaged countries shall accord to Member States rights of establishment no more restrictive than those accorded to third States.

ARTICLE XI Insert new Article to read as follows:

Article 59: Safeguard Measures

1. Where, in accordance with this Treaty, a Member State establishes an entitlement to limit imports of goods from other Member States because:
 - a. an industry or a particular sector of an industry in the first-mentioned Member State experiences serious difficulties due to a substantial decrease in internal demand for

- a domestic product; and
- b. such decrease in internal demand for the domestic product is due to an increase in imports consigned

from other Member States as a result of the operation of the CARICOM Single Market and Economy,

Then in such a case the first-mentioned Member State, being a disadvantaged country, and notwithstanding any other provisions to the contrary in the Treaty, may limit such imports for a period of up to three (3) years unless the COTED authorises the limitation for a longer period and take such other measures as the COTED may authorise.

2. A disadvantaged country applying restrictions in accordance with paragraph 1 of this Article shall notify them to the COTED, if possible, before they come into force. The COTED may, at any time, consider those restrictions and shall, in the light of such consideration, make recommendations designed to moderate any damaging effect of such restrictions or to assist the disadvantaged country to overcome its difficulties.
3. Nothing in this Treaty shall be construed as entitling any Member State to apply safeguard measures against the products of Community origin of a disadvantaged Member State where such products do not exceed 20 per cent of the market of the importing Member State.

Continuation: [Article XII](#)