

CHAPTER 302

THE ORGANISATION OF EASTERN CARIBBEAN STATES ACT

Arrangement of Sections Section

1. Short title.
 2. Interpretation.
 3. Acceptance of the Treaty.
 4. Financial provisions for giving effect to the Treaty.
 5. Amendment of the Schedule and consequential matters.
- SCHEDULE.
-

ORGANISATION OF EASTERN CARIBBEAN STATES

(27th December, 1986.)

15/1986.

1. This Act may be cited as the Organisation of Eastern Caribbean States Act. **Short title.**

2. In this Act— **Interpretation.**

"Treaty" means the Treaty signed on the 18th day of June, 1981 at Basseterre for the establishment of the Organisation of Eastern Caribbean States the text of which is set out in the Schedule.

3. Notwithstanding anything to the contrary contained in any other law the Treaty and the Annexes thereto, as are set out in the Schedule, have the force of law in Antigua and Barbuda. **Acceptance of the Treaty.**

Financial provisions for giving effect to the Treaty.

4. (1) There shall be paid out of the Consolidated Fund on the Warrant of the Minister all payments required to be made from time to time for the purposes of meeting the obligations of Antigua and Barbuda under the Treaty and such payments are charged on the Consolidated Fund.

(2) Any sums received by the Government pursuant to the Treaty shall be paid into the Consolidated Fund.

Amendment of the Schedule and consequential matters.

5. (1) Where any amendment to the Treaty is accepted by the Government of Antigua and Barbuda the Minister may, by Order published in the *Gazette*, amend the Schedule in accordance with such amendment.

(2) Any Order made under subsection (1) may contain such consequential, supplementary or ancillary provisions as may appear to the Minister to be necessary or expedient for the purpose of giving due effect to such amendment and without prejudice to the generality of the foregoing matters, may contain provisions.

(3) Any Order made under subsection (1) shall be subject to negative resolution of the Legislature.

(4) Where the Schedule is amended pursuant to subsection (1), any reference in this Act or in any other written law shall, unless the context otherwise requires, be construed as a reference to the Treaty so amended.

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TREATY
ESTABLISHING
THE
ORGANISATION OF EASTERN CARIBBEAN STATES

Preamble

The Governments of the Contracting States,

CONVINCED that the West Indies (Associated States) Council of Ministers since its establishment in 1966 has done much to further regional co-operation in many fields and has rendered valuable services to its member countries;

RECOGNISING that since the establishment of the said Council of Ministers significant constitutional and other changes have taken place in the region;

AFFIRMING their determination to achieve economic and social development for their peoples as enunciated in the Agreement of the 11th day of June, 1968, establishing the East Caribbean Common Market;

INSPIRED by a common determination to strengthen the links between themselves by uniting their efforts and resources and establishing and strengthening common institutions which could serve to increase their bargaining power as regards third countries or groupings of countries;

HAVING IN MIND the strong views expressed by the said Council of Ministers regarding the desirability of retaining and formalising the arrangements for joint action by its member countries;

DETERMINED to satisfy the legitimate aspirations of their peoples for development and progress;

HAVE AGREED as follows:

ARTICLE 1

Establishment of the Organisation of Eastern Caribbean States

By this Treaty the Contracting Parties establish among themselves the Organisation of Eastern Caribbean States (hereinafter called 'The Organisation') having the membership, powers and functions hereinafter specified.

ARTICLE 2

Membership

1. Full membership of the Organisation shall be open to those countries which immediately prior to the establishment of the Organisation have been members of the West Indies (Associated States) Council of Ministers, namely:

- (a) Antigua and Barbuda
- (b) Dominica
- (c) Grenada
- (d) Montserrat
- (e) St. Kitts/Nevis
- (f) Saint Lucia
- (g) Saint Vincent and The Grenadines

2. The independent States listed in the preceding paragraph the Governments of which sign and ratify this Treaty in accordance with Article 20 thereof shall immediately become full members (hereinafter referred to as 'The Member States') of the Organisation.

3. Notwithstanding that a territory or group of territories listed in Paragraph 1 of this Article is not a sovereign independent State, the Heads of Government of the Member States of the Organisation (hereinafter referred to as 'The Authority') may by a unanimous decision admit such territory or group of territories as a full member of the Organisation and such territory or group of territories shall thereby qualify as a Member State under this Treaty.

4. Any other States or territories in the Caribbean region may apply to become Full or Associate Members and shall be admitted as such by a unanimous decision of the Authority. The nature and extent of the rights and obligations of Associate Members shall be determined by the Authority.

ARTICLE 3

Purposes and Functions of the Organisation

1. The major purposes of the Organisation shall be:

(a) to promote co-operation among the Member States and at the regional and international levels having due regard to the Treaty establishing the Caribbean Community and the Charter of the United Nations;

(b) to promote unity and solidarity among the Member States and to defend their sovereignty, territorial integrity and independence;

(c) to assist the Member States in the realisation of their obligations and responsibilities to the international community with due regard to the role of international law as a standard of conduct in their relationship;

(d) to seek to achieve the fullest possible harmonisation of foreign policy among the Member States; to seek to adopt, as far as possible, common positions on international issues and to establish and maintain wherever possible, arrangements for joint overseas representation and/or common services;

(e) to promote economic integration among the Member States through the provisions of the Agreement Establishing the East Caribbean Common Market; and

(f) to pursue the said purposes through its respective institutions by discussion of questions of common concern and by agreement and common action.

2. To this end the Member States will endeavour to co-ordinate, harmonise and pursue joint policies particularly in the fields of—

- (a) External Relations including overseas representation;
- (b) International Trade Agreements and other External Economic Relations;
- (c) Financial and Technical Assistance from external sources;
- (d) International Marketing of Goods and Services including Tourism;
- (e) External Transportation and Communications including Civil Aviation;
- (f) Economic Integration among the Member States through the provisions of the Agreement Establishing the East Caribbean Common Market;
- (g) Matters relating to the sea and its resources;
- (h) The Judiciary;
- (i) Currency and Central Banking;
- (j) Audit;
- (k) Statistics;
- (l) Income Tax Administration;
- (m) Customs and Excise Administration;
- (n) Tertiary Education including University;
- (o) Training in Public Administration and Management;
- (p) Scientific, Technical and Cultural Co-operation;
- (q) Mutual Defence and Security; and
- (r) Such other activities calculated to further the purposes of the Organisation as the Member States may from time to time decide.

ARTICLE 4

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 institutions of the Organisation.

They shall facilitate the achievement of the purposes of the Organisation; in particular, each Member State shall take all steps to secure the enactment of such legislation as is necessary to give effect to this Treaty and decisions taken thereunder.

ARTICLE 5

Institutions of the Organisation

1. There are hereby established the following principal institutions through which the Organisation shall accomplish the functions entrusted to it under this Treaty:

- (a) The Authority of Heads of Government of the Member State of the Organisation (referred to in this Treaty as 'The Authority');
- (b) The Foreign Affairs Committee;
- (c) The Defence and Security Committee;
- (d) The Economic Affairs Committee; and
- (e) The Central Secretariat.

2. The institutions of the Organisation shall perform the functions and act within the limits of the powers conferred upon them by or under this Treaty and by the Protocols thereto. They may establish such subsidiary institutions as they deem necessary for the performance of their functions.

ARTICLE 6

Composition and Functions of the Authority

1. The Authority shall be composed of Heads of Government of the Member States.

2. Any member of the Authority may, as appropriate, designate a Minister to represent such member at any meeting of the Authority.

3. Only Member States possessing the necessary competence in respect of matters under consideration from time to time shall take part in the deliberations of the Authority.

4. The Authority shall be the supreme policy-making institution of the Organisation. It shall be responsible for, and have the general direction and control of the performance of the functions of the Organisation, for the progressive development of the Organisation and the achievement of its purposes.

5. The Authority shall have power to make decisions on all matters within its competence. All such decisions shall require the affirmative vote of all Member States present and voting at the meeting of the Authority at which such decisions

were taken provided that such decisions shall have no force and effect until ratified by those Member States, if any, which were not present at that meeting, or until such Member States have notified the Authority of their decision to abstain. Such decisions by the Authority shall be binding on all Member States and on all institutions of the Organisation and effect shall be given to any such decisions provided that it is within the sovereign competence of Member States to implement them.

6. The Authority may make such recommendations and give such directives as it deems necessary for the achievement of the purposes of the Organisation and for ensuring the smooth functioning of the institutions of the Organisation.

7. The Authority may establish, and designate as such, institutions of the Organisation in addition to those specified in sub-paragraphs *(b)*, *(c)*, *(d)* and *(e)* of Paragraph 1 of Article 5 of this Treaty, as it deems necessary for the achievement of the purposes of the Organisation.

8. Subject to the relevant provisions of this Treaty, the Authority shall be the final authority for the conclusion of treaties or other international agreements on behalf of the Organisation and for entering into relationships between the Organisation and other International Organisations and third countries.

9. Subject to the relevant provisions of this Treaty, the Authority shall take decisions for the purpose of establishing the financial arrangements necessary for meeting the expenses of the Organisation and shall be the final authority on questions arising in relation to the financial affairs of the Organisation.

10. The Authority shall meet at least twice a year. It shall determine its own procedure including that for convening meetings, for the conduct of business thereat and at other times, and for the annual rotation of the office of Chairman among its members in accordance with the principle of alphabetical order of the Member States.

11. The Authority shall in addition meet in extraordinary session whenever it deems necessary in accordance with the regulations laid down in its rules of procedure.

ARTICLE 7

Composition and Functions of the Foreign Affairs Committee

1. The Foreign Affairs Committee shall consist of the Ministers responsible for Foreign Affairs in the Governments of the Member States or such other Ministers as may be designated by the Heads of Government of the Member States.

2. Only Member States possessing the necessary competence in respect of matters under consideration from time to time shall take part in the deliberations of the Foreign Affairs Committee.

3. The Foreign Affairs Committee shall be responsible to the Authority. It shall take appropriate action on any matters referred to it by the Authority and shall have the power to make recommendations to the Authority.

4. The Foreign Affairs Committee shall have responsibility for the progressive development of the foreign policy of the Organisation and for the general direction and control of the performance of the executive functions of the Organisation in relation to its foreign affairs.

5. The decisions and directives of the Foreign Affairs Committee shall be unanimous and shall be binding on all subordinate institutions of the Organisation unless otherwise determined by the Authority.

6. Subject to any directives that the Authority may give, the Foreign Affairs Committee shall meet as and when necessary. It shall determine its own procedure, including that for convening meetings, for the conduct of business thereat, and at other times and for the annual rotation of the office of Chairman among its members in accordance with the principle of alphabetical order of the Member States.

ARTICLE 8

Composition and Functions of the Defence and Security Committee

1. The Defence and Security Committee shall consist of the Ministers responsible for Defence and Security or other Ministers or Plenipotentiaries designated by Heads of Government of the Member States.

2. Only Member States possessing the necessary competence in respect of matters under consideration from time to time shall take part in the deliberations of the Defence and Security Committee.

3. The Defence and Security Committee shall be responsible to the Authority. It shall take appropriate action on any matters referred to it by the Authority and shall have the power to make recommendations to the Authority. It shall advise the Authority on matters relating to external defence and on arrangements for collective security against external aggression, including mercenary aggression, with or without the support of internal or national elements.

4. The Defence and Security Committee shall have responsibility for co-ordinating the efforts of Member States for collective defence and the preservation

of peace and security against external aggression and for the development of close ties among the Member States of the Organisation in matters of external defence and security, including measures to combat the activities of mercenaries, operating with or without the support of internal or national elements, in the exercise of the inherent right of individual or collective self-defence recognised by Article 51 of the Charter of the United Nations.

5. The decisions and directives of the Defence and Security Committee shall be unanimous and shall be binding on all subordinate institutions of the Organisation unless otherwise determined by the Authority.

6. Subject to any directives that the Authority may give, the Defence and Security Committee shall meet as and when necessary. It shall determine its own procedure, including that for convening meetings, for the conduct of business thereat and at other times, and for the annual rotation of the Office of Chairman among its members in accordance with the principle of alphabetical order of the Member States.

ARTICLE 9

Composition and Functions of the Economic Affairs Committee

1. The Economic Affairs Committee (hereinafter referred to in this Article as 'The Committee') shall consist of such Ministers in the Governments of the Member States as may from time to time be appointed to the Committee by Heads of Government of the Member States.

2. Only Member States possessing the necessary competence in respect of matters under consideration from time to time shall take part in the deliberations of the Committee.

3. The Committee shall have as its functions those functions entrusted to the Council of Ministers under the Agreement of 11th June, 1968, establishing the East Caribbean Common Market.

4. The provisions of the said Agreement, to the extent that they are **not** incompatible with the provisions of this Treaty, shall be deemed to be incorporated in and to form an integral part of this Treaty. The provisions of the **said** Agreement are set out in Annex 1 to this Treaty.

ARTICLE 10

The Central Secretariat

1. The Central Secretariat (hereinafter referred to as 'The Secretariat') shall be the principal institution responsible for the general administration of the Organisation.

2. The Secretariat shall comprise a Director-General and such other staff as the Organisation may require.

3. The Director-General shall be the Chief Executive Officer of the Organisation and shall have responsibility for the general direction and control of the Organisation. He shall be appointed by the Authority to serve in that capacity for a term of four (4) years and shall be eligible for re-appointment.

4. In the performance of his functions, the Director-General shall be responsible to the Authority, the Foreign Affairs Committee, the Defence and Security Committee and the Economic Affairs Committee. He shall be responsible for the general efficiency of the administrative service, for co-ordination of the activities of the Organisation and for the operation of the administrative apparatus in general. He shall similarly be responsible to any institution established by the Authority pursuant to Paragraph 7 of Article 6 of this Treaty.

In particular, his duties shall include the following:

- (a) to service meetings of institutions of the Organisation;
- (b) to take appropriate follow-up action on decisions, recommendations or directives taken at such meetings;
- (c) to keep the functioning of the Organisation under continuous review and to report his findings to the appropriate Chairman;
- (d) to make reports of activities and an annual report to the Authority on the work of the Organisation; and
- (e) to undertake such work and studies and perform such services relating to the functions of the Organisation as may be assigned to him from time to time and also make such proposals relating thereto as may assist in the efficient and harmonious functioning and development of the Organisation.

5. The terms and conditions of service of the Director-General and other staff of the Secretariat shall be governed by such rules and regulations as are approved by the Authority.

6. In appointing officers to posts in the Secretariat, due regard shall be paid, subject to the paramount consideration of securing the highest standards of efficiency, competence and integrity, to the desirability of maintaining an equitable distribution of appointments to such posts among citizens of the Member

States. Subject to the provisions of this paragraph, the Director-General shall have the discretion to appoint all staff to the Secretariat provided that Directors are appointed with the prior approval of the Authority.

7. The Director-General shall have the responsibility to ensure that all persons found suitable for employment are duly cleared before engagement in respect of security.

8. In the performance of their duties the Director-General and other **members** of the staff of the Secretariat shall neither seek nor accept instructions from any Government or from any other authority external to the Organisation. They shall refrain from any action which might reflect on their position as international **officials** responsible only to the Organisation.

9. Each Member State undertakes to respect the exclusive international character of the responsibilities of the Director-General and other members of the staff of the Organisation and not to seek to influence them in the discharge of their responsibilities.

ARTICLE 11

Co-ordination and Harmonisation of Foreign Policy

1. Unless objection is offered by the receiving States or international organisations and conferences concerned, Member States of the Organisation may establish and maintain arrangements for joint overseas diplomatic or other **representation**, including, where appropriate, the accreditation of one representative to one or more States, international organisations or conferences.

2. Where such objection, referred to in the preceding paragraph, is made by an international organisation or conference by virtue of its constitution or **rules** of procedure or for any other reason and where the Member States are members of such organisation or conference, the Director-General shall take all appropriate steps, consistent with the constitution or rules of procedure of such organisation or conference, as to ensure the optimum realisation of the benefits of their membership of such organisation or conference.

3. The Director-General shall have the authority and responsibility for transmitting directives of the Authority on joint foreign policy matters to heads of overseas diplomatic and other missions established by the **Organisation**. He shall take precedence in matters of protocol over the heads of such missions.

4. Heads of diplomatic or other missions of the Organisation shall be recommended for appointment by the Authority after consultation with the Foreign Affairs Committee. Provided that they may at any time resign their offices by written

notice to the Director-General, who shall promptly transmit such notice to the Member States of the Organisation.

5. Subject to the preceding paragraph, the staff of such missions shall be appointed by the Director-General. In appointing such staff he shall have due regard to the provisions of Paragraphs 6 and 7 of Article 10 of this Treaty. The terms and conditions of service of such staff shall be governed by such rules and regulations as govern the staff at the headquarters of the Organisation.

6. The expenses for diplomatic or other representatives referred to in Paragraph 1 of this Article shall be apportioned among the Member States participating in such arrangements.

ARTICLE 12

External Auditor

1. There shall be an External Auditor of the Organisation who shall be appointed and removed by the Authority.

2. Subject to the provisions of the preceding paragraph the regulations governing the terms and conditions of service and powers of the External Auditor shall be approved by the Authority.

ARTICLE 13

The Budget of the Organisation

1. There shall be established a budget of the Organisation

2. All expenses of the Organisation shall be approved in respect of each financial year by the Authority and shall be chargeable to the budget.

3. Revenues of the budget shall be derived from annual contributions by the Member States and from such other sources as may be determined by the Authority.

4. The budget shall be in balance as to revenues and expenditures.

5. A draft budget for each financial year shall be prepared by the Director-General for the approval of the Authority.

6. There shall be special budgets to meet extraordinary expenditures of the Organisation.

7. Each Member State undertakes to pay regularly its annual contribution to the budget of the Organisation.

ARTICLE 14

Procedure for the Settlement of Disputes

1. Any dispute that may arise between two or more of the Member States regarding the interpretation and application of this Treaty shall, upon the request of any of them, be amicably resolved by direct agreement.

2. If the dispute is not resolved within three months of the date on *which* the request referred to in the preceding paragraph has been made, any party to the dispute may submit it to the conciliation procedure provided for in **Annex A** to this Treaty by submitting a request to that effect to the Director-General of the Organisation and informing the other party or parties to the dispute of the request.

3. Member States undertake to accept the conciliation procedure referred to in the preceding paragraph as compulsory. Any decisions or recommendations of the Conciliation Commission in resolution of the dispute shall be final and binding on the Member States.

ARTICLE 15

Participation in other Arrangements

1. Nothing in this Treaty shall preclude any Member State from **participating** in other arrangements either with other Member States or **non-Member States** provided that its participation in such arrangements does not derogate from the provisions of this Treaty.

2. The rights and obligations arising from agreements concluded **before** the entry into force of this Treaty between Member States, or between Member States and other countries or organisations shall not be affected by the provisions of this Treaty.

3. To the extent that such agreements are not compatible **with this Treaty**, the Member State or States concerned shall take all appropriate steps to eliminate the incompatibilities established. Member States shall, where necessary, assist **each** other to this end and shall, where appropriate, adopt a common **attitude**.

ARTICLE 16

Relations with other International Organisations and Other Countries

1. The Organisation shall seek to establish such relations with other International Organisations and other countries as may facilitate the attainment of its purposes. To this end, the Organisation may conclude formal agreements or establish effective working relationships with such Organisations and Governments of other countries.

2. The Organisation may decide, in accordance with its rules of procedure, to admit as observers at its deliberations representatives of non-Member States or other entities.

ARTICLE 17

Privileges and Immunities

1. The Organisation as an international organisation, shall enjoy legal personality.

- 2.** The Organisation shall have in the territory of each Member State:
- (a) the legal capacity required for the performance of its functions under this Treaty; and
 - (b) power to acquire, hold or dispose of movable or immovable property.

3. In the exercise of its legal personality under this Article, the Organisation shall be represented by the Director-General.

4. The privileges and immunities to be granted to the senior officials of the Organisation at its headquarters and in the Member States shall be the same as accorded to members of a diplomatic mission accredited at the headquarters of the Organisation and in the Member States under the provisions of the Vienna Convention on Diplomatic Relations of 18 April 1961. Similarly the privileges and immunities granted to the Secretariat at the headquarters of the Organisation shall be the same as granted to diplomatic missions at the headquarters of the Organisation and in the Member States under the said Convention. Other privileges and immunities to be recognised and granted by the Member States in connection with the Organisation shall be determined by the Authority.

ARTICLE 18

Headquarters of the Organisation

The location of the headquarters of the Organisation shall be determined by the Authority.

ARTICLE 19

Setting-up of the Institutions

1. At its first meeting after the entry into force of this Treaty the Authority shall, *inter alia*:

(a) admit to membership in the Organisation the non-independent territories included in Paragraph 1 of Article 2 of this Treaty, before consideration of any other matter;

(b) appoint the Director-General;

(c) determine the headquarters of the Organisation;

(d) make decisions for the establishment of financial arrangements for meeting the expenses of the Organisation; and

(e) give such directions to the institutions of the Organisation as are necessary for the expeditious and effective implementation of the provisions of this Treaty.

ARTICLE 20

Signature and Ratification

1. This Treaty and any Protocols thereto which shall form an integral part of the Treaty, shall be open for signature to all countries specified in Paragraph 1 of Article 2 of this Treaty.

2. This Treaty is subject to ratification by the signatories in accordance with their respective constitutional processes.

3. The original text of this Treaty shall be deposited with the Government of Saint Lucia which shall transmit certified copies thereof to all the signatories.

4. Instruments of ratification or accession shall be deposited with the Government of Saint Lucia, which shall notify all signatories of each such deposit.

ARTICLE 21

Entry into Force

This Treaty shall enter into force immediately upon receipt by the Government of Saint Lucia of the second instrument of ratification from the countries specified in Paragraph 1 of Article 2 of this Treaty which have the status of Independent States.

ARTICLE 22

**Admission to Membership
Accession and Adherence**

1. After this Treaty has entered into force in accordance with the provisions of Article 21 thereof, any independent State or Territory specified in Article 2 of this Treaty may apply to the Authority to become a Full Member or Associate Member of the Organisation and may, if the Authority so decides, be admitted as such in accordance with Paragraphs 3 and 4 of Article 2 of this Treaty respectively.

2. Unless otherwise desired by the Authority, admission to full membership of the Organisation shall take effect immediately upon a decision to that effect by the Authority.

3. Each Territory admitted to full membership of the Organisation shall accede to this Treaty in accordance with the provisions of Paragraph 4 of Article 20 thereof upon its attainment of independent statehood.

4. Any independent State or Territory in the Caribbean region may at any time notify the Director-General of its intention to adhere to this Treaty.

5. The Director-General shall, on receipt of such notification, transmit a copy of it to all the signatories and to the Government of Saint Lucia.

6. The terms and conditions of adherence in any particular case shall be determined by the Authority.

ARTICLE 23

Declaration of Non-Participation

Any Member State may, either on becoming a member of the Organisation or within a period not exceeding twelve (12) months thereafter, declare in writing to the Director-General its intention to withhold its participation in respect of

Foreign Affairs and/or Defence and Security matters of the Organisation. The Director-General shall on receipt of such declaration promptly transmit a copy of it to all the other Member States of the Organisation. Such declaration shall take effect on the date of its receipt by the Director-General.

ARTICLE 24

Withdrawal

1. This Treaty shall be of unlimited duration

2. Any Member State, whether a Full Member or an Associate Member, may withdraw from the Organisation if it decides that extraordinary events, related to the subject-matter of this Treaty, have seriously endangered its supreme national interests. It shall give written notice of such withdrawal to the Director-General who shall promptly notify the other Member States and the Government of Saint Lucia. Such withdrawal shall take effect twelve (12) months after the notice is received by the Director-General.

3. Any Member State which withdraws from the Organisation shall discharge its financial obligations to the Organisation and shall respect any commitments undertaken before the effective date of withdrawal.

4. Any Member State which withdraws from the Organisation during the period of its operation has no claim to any part of the proceeds until the liquidation of the assets of the Organisation on the termination of this Treaty at which time it shall be entitled to the value of its assets as at the date of withdrawal.

ARTICLE 25

Amendments

1. Any Member State may make written proposals for the amendment of this Treaty and any Protocols thereto.

2. Amendments shall be effected by a unanimous decision of the Authority. They shall come into force on the thirtieth day following the date of their receipt by the Government of Saint Lucia. The text of any amendment shall be promptly communicated by the Director-General to the said Government which shall transmit certified copies thereof to all the signatories to this Treaty and shall also inform them of the date of entry into force of any such amendment.

ARTICLE 26

Registration

This Treaty and all its Protocols shall be registered by the Government of Saint Lucia with the Secretariat of the United Nations pursuant to Article 102 of the Charter of the United Nations and shall also be registered with the Secretariat of the Caribbean Community.

ARTICLE 27

Transitional Arrangements

Until such time as the Director-General is appointed the powers and functions of the said officer shall be exercised by the Executive Secretary of the Council of Ministers of the West Indies Associated States.

IN WITNESS WHEREOF, the Undersigned Plenipotentiaries, being duly authorised thereto by their respective Governments, have signed the present Treaty.

DONE AT Basseterre this Eighteenth day of June, One thousand nine hundred and eighty-one.

For the Government of:

Antigua	LESTER BIRD
Dominica	M. EUGENIA CHARLES
Grenada	MAURICE BISHOP
Montserrat	F.A.L. MARGETSON
St. Kitts/Nevis	KENNEDY A. SIMMONDS
Saint Lucia	WINSTON F. CENAC
Saint Vincent and the Grenadines	HUDSON TANNIS

ANNEX A

Conciliation Commission

1. A list of conciliators consisting of qualified jurists shall be drawn up and maintained by the Director-General of the Organisation. To this end, every Member State shall be invited to nominate two conciliators, and the names of the persons so nominated shall constitute the list. The term of a conciliator, including that of any conciliator nominated to fill a casual vacancy, shall be five years and may be renewed. A conciliator whose term expires shall continue to fulfil any function for which he shall have been chosen under the following paragraph.

2. (a) When a request has been made to the Director-General under Article 14, the Director-General shall bring the dispute before a Conciliation Commission constituted as follows:

The Member State or Member States constituting one of the parties to the dispute shall appoint:

- (i) one conciliator who is a citizen of that State or of one of these States and who may or may not be chosen from the list referred to in paragraph 1; and
- (ii) one conciliator who is not a citizen of that State or of any of those States and who shall be chosen from the list.

(b) The Member State or Member States constituting the other party to the dispute shall appoint two conciliators in the same way. The four conciliators chosen by the parties shall be appointed within thirty days following the date on which the Director-General received the request.

(c) The four conciliators shall, within thirty days following the date of the last of their own appointments, appoint a fifth conciliator chosen from the list, who shall be chairman.

(d) If the appointment of the Chairman or of any of the other conciliators has not been made within the period prescribed above for such appointment, it shall be made by the Director-General within thirty days following the expiry of that period. The appointment of the Chairman may be made by the Director-General either from the list or from the membership of the International Law Commission. Any of the periods within which appointments must be made may be extended by agreement between the parties to the dispute.

(e) Any vacancy shall be filled in the manner prescribed for the initial appointment.

3. The Conciliation Commission shall decide its own procedure. The Commission, with the consent of the parties to the dispute, may invite any Member State of the Organisation to submit to it its views orally or in writing. Decisions and recommendations of the Commission shall be made by a majority vote of the five members.

4. The Commission may draw the attention of the parties to the dispute to any measures which might facilitate an amicable settlement.

5. The Commission shall hear the parties, examine the claims and objections, and make proposals to the parties with a view to reaching an amicable settlement of the dispute.

6. The Commission shall report within six months of its constitution. Its report shall be deposited with the Director-General and transmitted to the parties to the dispute. The report of the Commission, including any conclusions stated therein regarding the facts or questions of laws, shall be binding upon the parties.

7. The Director-General shall provide the Commission with such assistance and facilities as it may require. The expenses of the Commission shall be borne by the Organisation.

ANNEX I

AGREEMENT ESTABLISHING

THE

EAST CARIBBEAN COMMON MARKET

THE GOVERNMENTS OF THE SIGNATORY STATES

DETERMINED to establish the foundation of a closer union among the peoples of the East Caribbean;

RESOLVED to ensure by common action economic and social development of their countries by eliminating the barriers which divide them;

AFFIRMING as the prerequisite to their efforts the continuing improvement of the living standards and working conditions of their people;

RECOGNIZING the need for concerted action in order to guarantee steady expansion, balanced trade, fair competition and equitable distribution of gains;

CONVINCED that the establishment of a Common Market among the Associated States of the West Indies and the participation of such states in the Caribbean

Free Trade Association will contribute to the rapid growth of these States and to the ultimate creation of a viable economic community of Caribbean countries:

HAVE AGREED as follows—

ARTICLE 1

Common Market

1. A Common Market to be called the East Caribbean Common Market (hereinafter referred to as "the Common Market") is hereby established.

2. The Members of the Common Market (hereinafter referred to as "Member States") shall be the Associated States on behalf of the Governments of which this Agreement is ratified in accordance with Article 24 and such other States as participate therein by virtue of Article 25.

3. For the purposes hereof—

"Associated States" means those territories which have assumed and which maintain a status of association with the United Kingdom in accordance with the West Indies Act 1967, and includes the territories of Saint Vincent and Montserrat;

"State" means any of the Associated States and its dependencies (if any).

4. The Common Market shall operate over the territorial jurisdictions of the Member States (which jurisdictions are hereinafter collectively referred to as "the Market Area").

ARTICLE 2

Objectives

The objectives of the Common Market shall be—

(a) to promote in Member States—

(i) harmonious development of economic activities;

(ii) continuous economic expansion;

(iii) fair distribution of benefits derived from the Common Market;

(iv) increase economic stability;

(v) accelerated improvement in the standard of living;

(vi) closer economic relations;

(b) to facilitate the maximum inter-change of goods and services by the progressive approximating of the economic policies of Member States.

ARTICLE 3

Principles

To achieve the objectives set out in Article 2, the activities of the Member States shall include under the conditions and timing set out in the Agreement—

(a) the elimination, as between Member States, of customs duties and of quantitative restrictions on the importation and exportation of goods, as well as of all other measures with equivalent effect;

(b) subject to Article 22, the establishment of common customs tariffs and common commercial policies towards countries and territories, not parties to this Agreement;

(c) the abolition, as between Member States, of the obstacles to the free movement of persons, services and capital;

(d) the progressive harmonization of investment and development policies, including industrial development, treatment of non-resident business establishments and development planning;

(e) the co-ordination of currency and financial policies;

(f) the progressive harmonization of taxation policies and incentive legislation in order to promote the equitable distribution of industries among Member States;

(g) a co-operative approach to infra-structural development especially in the field of transport and communication;

(h) a common policy to agricultural development.

ARTICLE 4

Structure of Common Market

The Common Market shall have—

(a) a Council of Ministers;

(b) a Secretariat; and

(c) such other organisations as the Council of Ministers may set up.

ARTICLE 5

Import Duties

1. Member States shall not apply any import duties on goods which are eligible for Market Area tariff treatment in accordance with Article 6.

2. For the purposes of this Article 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 8 and other charges which fall within that Article.

3. The provisions of this Article do not apply to fees and similar charges in respect of services rendered and nothing in paragraph 2 of this Article shall be construed to exclude from the application of paragraph 1 of this Article any tax or surtax of customs on any product neither the like of which, nor a competitive substitute for which, is produced in the importing Member State, or to extend such application to non-discriminatory internal charges on any such product.

4. For the purposes of paragraph 3 of this Article—

(a) "non-discriminatory" means non-discriminatory as between **goods** eligible for Market Area tariff treatment as aforesaid and goods not so eligible;

(b) a charge shall not be deemed other than internal by reason only that it is collected at the time and place of importation.

ARTICLE 6

Market Area Origin for Tariff Purposes

1. For the purposes of Article 5 goods shall, subject to Annex A, be accepted as eligible for Market Area tariff treatment if they are consigned from a **Member** State to a consignee in the importing Member State and if they are of Market Area origin under any one of the following **conditions**—

(a) that they have been wholly produced within the Market Area;

(b) that they fall within a description of goods listed in a Process List to be established by decision of the Council of Ministers and have been produced within the Market Area by the appropriate qualifying process described in such List;

(c) that they have been produced within the Market Area and that the value of any materials imported from outside the Market Area or of undetermined origin which have been used at any stage of the production of such goods does not exceed 50 per centum of the export price of such goods.

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

3. Nothing in this Agreement shall prevent a Member State from accepting as eligible for Market Area tariff treatment any imports consigned from another Member State:

Provided that the like imports consigned from any other Member State are accorded the same treatment:

4. Provisions necessary for the administration and effective application of this Article are contained in Annex A.

5. The Council of Ministers shall from time to time decide to amend the provisions of this Article, Annex A and the Process List established under sub-paragraph (b) of paragraph 1 of this Article.

6. The Council of Ministers shall from time to time examine in what respect this Agreement can be amended in order to ensure the smooth operation of the rules relating to Market Area origin for tariff purposes.

7. Nothing in this Agreement shall require a Member State to accept as eligible for Market Area tariff treatment any imports consigned from another Member State and consisting of, or manufactured from, oils and fats as defined by clause 2 of the Oils and Fats Agreement, or any of such oils or fats where such Member State is a party to the Oils and Fats Agreement, and such other Member State is not a party to that Agreement, being the Agreement made on the 26th January, 1967, between the Governments of Barbados, Dominica, Grenada, Guyana, St. Lucia, St. Vincent and Trinidad and Tobago or any Agreement amending or replacing the same.

ARTICLE 7

The Common Customs Tariff

Member States agree to work progressively towards the establishment of a common customs tariff on goods originating in non-member territories and countries. For this purpose Member States shall amend their tariffs applicable to non-member territories and countries to bring them to a mutually agreed level in such time not exceeding three years as the Council of Ministers may, by majority vote, decide.

ARTICLE 8

Revenue Duties and Internal Taxation

1. 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, nor otherwise apply such charges so as to afford effective protection to like domestic goods; or

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

2. A Member State shall notify the Council of Ministers of all fiscal charges applied by it where, although the rates of charge, or the conditions governing the imposition of collection of the charge, are not identical in relation to the imported goods, and to the like domestic goods, the Member State applying the charge considers that the charge is, or has been, 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—

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

"revenue duties" means customs duties and other similar charges applied primarily for the purpose of raising revenue; and

"imported goods" means goods which are accepted as being eligible for Market Area tariff treatment in accordance with Article 6.

ARTICLE 9

Export Drawback

Each Member State may refuse to accept as eligible for Market Area tariff treatment goods which benefit from export drawback allowed by Member States in which the goods have undergone the processes of production which forms the basis of the claim to Market Area origin. In applying this paragraph, each Member

State shall accord the same treatment to imports consigned from all other Member States.

For the purposes of this Article—

"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;

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

"duties" means—

- (i) all charges on or in connection with importation, except fiscal charges to which Article 8 applies; and
- (ii) any protective element in such fiscal charges;

"materials" includes products, parts and components used in the production of the goods;

"process of production" includes the application of any operation or process, with the exception of any operation or process, which consists solely of one or more of the following—

- (i) packing, wherever the packing materials may have been produced;
- (ii) splitting up into lots;
- (iii) sorting and grading;
- (iv) marking;
- (v) putting up into sets.

ARTICLE 10

Dumped and Subsidised Imports

1. Nothing in this Agreement shall prevent any Member State from taking action against dumped or subsidised imports consistent with any international obligations to which it is subject.

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 reimported into the first Member State, be

admitted free of quantitative restrictions and measures with equivalent effect. They shall also be admitted free of customs duties and charges with equivalent effect, that any allowance by way of drawback relief from duty or otherwise, given by reason of the exportation from the first Member State, may be recovered.

3. If any industry in any Member State is suffering or is threatened with material injury as the result of the importation of dumped or **subsidised products** into another Member State, the latter Member State shall, at the **request** of the former Member State, examine the possibility of taking, consistent with any international obligations to which it is subject, action to remedy the injury or prevent the threatened injury.

ARTICLE 11

Exclusion from this Agreement

1. The provisions of this Agreement shall not affect the rights and **obligations** under any agreements entered into by one or more Member States prior to the coming into force of this Agreement:

Provided however, that Member States shall take any steps at their disposal which are necessary to reconcile the provisions of any such agreements with the basic objectives of this Agreement:

Provided further that, in case of any non-observance of any provision of this Agreement on the part of a Member State pursuant to its exemption in that **behalf** by virtue of the foregoing provisions of this Article, any other Member State which considers that it would enjoy any benefit under this Agreement but for **such** exemption only may, if no satisfactory settlement is reached between the Member States concerned, refer the matter to the Council of Ministers, who may, by majority vote, authorise any Member State to suspend as regards the first-mentioned Member State, the application of such obligation under this Agreement **as** the Council of Ministers considers fit, due regard being had to the report of such committee (if any) as may have been constituted in accordance with Article 21 to examine the matter, and paragraphs **2** and **5** of Article **20** shall apply *mutatis mutandis* in the case of any reference under this proviso as they apply in the **case** of a reference under paragraph 1 of Article **20**.

2. All such agreements shall be registered in such forms and shall be served in such manner as the Council of Ministers may, by majority vote, decide.

3. The Council of Ministers shall annually review the observance by **Member States** of the first proviso to paragraph 1 of this Article and may from time to time, by majority vote, recommend to any of them the taking of any steps for the purpose of that proviso.

4. For the purposes of this Article "agreements" means any agreements concluded by instruments, or any agreements made in writing which the council of Ministers decides, by majority vote, constitute agreements for these purposes.

ARTICLE 12

Movement of Persons

1. The Council of Ministers shall keep under review and evaluate the steps (if any) taken by Member States to free the movement of persons within the Common Market.

2. The Council of Ministers, having due regard to limitations justified by reason of public order, public safety and public health, shall within a period of three years from the date of the entry into force of this Agreement submit to Member States proposals for the phased removal of the obstacles to the freedom of movement of persons within the Common Market.

ARTICLE 13

Development Policies

1. Each Member State shall work towards the progressive harmonization of development, investment and industrial policies. This shall involve a common policy towards development planning, industrial development (including fiscal and other incentives to industry), non-resident persons and movement of capital.

2. The common policy towards development planning shall have as its ultimate objective the co-ordination of development plans, as well as, the introduction of special measures for securing the establishment and distribution of industries equitably among Member States, taking into account all relevant factors including the need for the continued and progressive development of each Member State, so as to facilitate complementarity, avoid unnecessary duplication and thereby more expeditiously achieve the basic aims of this Agreement.

3. The common industrial policy shall have as its objectives:

(a) the utilization as efficiently as possible of the natural and human resources of Member States;

(b) the increase of production and productivity in industry by ensuring the rational development of the units of production due consideration being given to the size of the market.

(c) the encouragement of production among Member States of products which can be economically produced but which are currently imported from outside the Market Area;

(d) ensuring that a fair proportion of the returns to industry accrue to residents of the Member States.

4. To achieve these objectives, Member States agree within a period of three years from the date of the entry into force of this Agreement, to the harmonization of incentives extended to encourage industrial activity consistent with this Agreement.

5. Member States shall, on the coming into force of this Agreement immediately abolish as between themselves, restrictions on the movement of capital belonging to persons resident therein. Current payments connected with movements of such capital between Member States shall not be subject to any restrictions.

6. Member States shall, within a period of three years from the **date** of the entry into force of this Agreement, adopt a common policy towards movement of capital between Member States and elsewhere, and current payments associated with such capital.

ARTICLE 14

Monetary Policy

1. Each Member State shall pursue policies aimed at using foreign currencies in those activities which result in maximum economic benefit to the Member States and encouraging the use of local currencies in all other projects when available. Such policies shall include common treatment of non-resident capital and greater mobilization of domestic capital for development purposes.

2. The Council of Ministers shall keep under review the monetary and financial situation of individual Member States as well as the general payment system of Member States as a group.

ARTICLE 15

Fiscal Policy

Member States agree to the progressive harmonization of their **fiscal policies**, especially in the fields of taxation of companies and individuals and fiscal incentives extended to persons engaged in industry, agriculture and tourism.

ARTICLE 16

Transport

1. The objectives of this Agreement shall be pursued by Member States within the framework of a common transport policy.
2. With a view to the implementation of this Article, and having regard to the special aspects of transport, Member States shall within three years of the coming into force of this Agreement, lay down common rules governing the operation and development of inter-territorial transport within the Market Area. These rules shall be reviewed by the Council of Ministers from time to time.
3. In the setting of common rules Member States shall ensure that such rules do not discriminate on the basis of origin or destination of goods carried within the Market Area.
4. In setting and reviewing the common rules due account shall be taken of the economic situation of the carriers, and the improvement and expansion of the transport service.

ARTICLE 17

Agriculture

1. Member States agree to adopt a common agricultural policy within two years of the coming into force of this Agreement. This policy shall relate to the products of the soil, livestock and fisheries.
2. Member States shall set up a Committee to make recommendation on the formulation and implementation of a common agricultural policy. Such policy should include a harmonized approach on such matters as subsidies, price supports and market guarantees. Member States shall keep such policy under constant review.
3. The Committee shall comprise one representative from each Member State, and the services of experts from other appropriate bodies may be co-opted.

ARTICLE 18

The Council of Ministers

1. The Council of Ministers shall consist of a representative at ministerial level of each of the Governments of Member States as members and each member shall have one vote.

2. The Council of Ministers shall be the principal organ of the common Market and shall be responsible for—

(a) exercising such powers and functions as are conferred upon it by this Agreement;

(b) supervising the application of this Agreement and keeping its operation under review;

(c) considering whether further action should be taken by Member States in order to promote the attainment of the objectives of the Common Market and facilitating the establishment of closer links with other countries, unions of countries or international organisations.

3. The powers of the Common Market shall be vested in the Council of Ministers and the Council of Ministers may delegate to the Secretariat such powers as it thinks fit.

4. In exercising its responsibility under paragraph 2 of this Article, the Council of Ministers may take decisions which shall be binding on all Member States and may make recommendations to Member States.

5. Decisions and recommendations of the Council of Ministers shall be made by unanimous vote, except in so far as this Agreement provides otherwise. Decisions or recommendations of the Council of Ministers shall be regarded as unanimous unless any Member State casts a negative vote. A decision or recommendation of the Council of Ministers pursuant to any such provision as aforesaid requires the affirmative votes of not less than two-thirds of all Member States, and reference in any such provision to a majority shall, in relation to the Council of Ministers be construed accordingly.

6. The Council of Ministers may, by its decision to confer authority under this Agreement, impose conditions to which such authority shall be subject.

7. The Council of Ministers shall take decisions for the following purposes—

(a) to lay down the Rules of Procedure of the Council of Ministers and of any bodies of the Common Market, which may include provision that procedural questions may be decided by majority vote;

(b) to make arrangements for the Secretariat services required by the Common Market;

(c) to establish the financial arrangements necessary for the administrative expenses of the Common Market and the procedure for establishing an annual budget.

8. The expenses of administering the Common Market shall be borne by Member States in equal shares or in such other manner as the Council of Ministers may decide.

ARTICLE 19

The Secretariat

1. The Secretariat shall be the principal administrative organ of the Common Market and the Council of Ministers may entrust it, and may set up other organs, committees and bodies and entrust them, with such functions as the Council of Ministers considers necessary to assist it in accomplishing its tasks. Decisions of the Council of Ministers pursuant to this paragraph shall be made by majority vote.

2. In order to ensure the adequate functioning of this Agreement, the Council of Ministers shall establish a Secretariat to administer the Common Market arrangements. Within three months of the coming into force of this Agreement, the Council of Ministers shall approve rules governing the proper functioning of the Secretariat.

3. The functions of the Secretariat shall be as follows—

(a) servicing of all meetings of the Council of Ministers;

(b) collection, collation, analysis and distribution of all information pertinent to the working of the Common Market;

(c) co-ordinate the work of committees and other bodies established by the Council of Ministers, and service their meetings;

(d) supervise the workings of this Agreement and report to the Council of Ministers all breaches of this Agreement;

(e) report to the Council of Ministers all difficulties as they arise in the administration of this Agreement;

(f) undertake such other functions for the furtherance of this Agreement as may be assigned to it by the Council of Ministers from time to time.

ARTICLE 20

General Consultations and Complaints Procedure

1. If any Member State considers that any benefit conferred upon it by this Agreement 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 these Member States may refer the matter to the Council of Ministers.

2. The Council of Ministers shall promptly, by majority vote, make arrangements for examining the matter. Such arrangements may include a reference to an examining committee constituted in accordance with Article 21. Before taking

action under paragraph 3 of this Article, the Council of Ministers shall so refer the matter at the request of any Member State concerned. Member States shall furnish all information which they can make available and shall lend their assistance to establish the facts.

3. When considering the matter the Council of Ministers shall have regard to whether it has been established that an obligation under this Agreement has not been fulfilled and whether and to what extent any benefit conferred by this Agreement or any objective of the Common Market is being or may be frustrated. In the light of this consideration and of the report of any examination committee which may have been appointed, the Council of Ministers may, by majority vote, make to any Member State such recommendations as it considers appropriate.

4. If a member State does not or is unable to comply with a recommendation made in accordance with paragraph 3 of this Article and the Council of Ministers finds, by majority vote, that an obligation under this Agreement has not been fulfilled, the Council of Ministers may, by majority vote, authorise any Member State to suspend as regards the Member State which has not complied with the recommendations the application of such obligations under this Agreement as the Council of Ministers, by majority vote considers appropriate.

5. Any Member State may, at any time while the matter is under consideration, request the Council of Ministers to authorise as a matter of urgency, interim measures to safeguard its position. If it is found by majority vote of the Council of Ministers 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 of Ministers may, by majority vote authorise a Member State to suspend its obligations under this Agreement to such an extent and for such a period as the Council of Ministers, by majority vote considers appropriate.

ARTICLE 21

Examining Committee

The examining committee referred to in Article 20 shall consist of persons selected for their competence and integrity, who in the performance of their duties, shall neither seek nor receive instructions from any territory or from any authority or organisation other than the Common Market. They shall be appointed, on such terms and conditions as may be decided, by majority vote of the Council of Ministers.

ARTICLE 22

Difficulties in Particular Sectors**1.** If, in a Member State—

(a) an appreciable rise in unemployment in a particular sector of industry or region is caused by a substantial decrease in internal demand for domestic product; and

(b) this decrease in demand is due to an increase in imports consigned from other Member States as a result of the progressive reduction or the elimination of duties, charges and quantitative restrictions, that Member State may, notwithstanding any other provisions of this Agreement—

(i) limit those imports by means of quantitative restrictions to a rate not less than the rate of such imports during any period of twelve months which ended within twelve months of the date on which the restrictions come into force; the restrictions shall not be continued for a period longer than eighteen months, unless the Council of Ministers, by majority vote authorises their continuance of such further period and on such conditions as the Council of Ministers, by majority vote, considers appropriate; and

(ii) take such measures, either instead of or in addition to restriction of imports in accordance with subparagraph (i) of this paragraph, as the Council of Ministers may, by majority vote, authorise.

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

4. This Article shall have effect until 30th April, 1973.

5. Before 1st May, 1973, if the Council of Ministers considers that some provision similar to those in paragraph 1 to 3 of this Article will be required thereafter, it may decide that such provisions shall have effect for any period after that date.

ARTICLE 23

Relations with International Organisations

The Council of Ministers, shall seek to procure the establishment of such relationships with other international organisations as may facilitate the attainment of the objectives of the Common Market.

ARTICLE 24

Ratifications Required for Effectiveness

1. This Agreement shall be ratified by the Signatory States in accordance with their respective constitutional rules. The instruments of ratification shall be deposited with the Government of Saint Lucia on or before the 28th day of June, 1968. The Government of Saint Lucia shall notify the other Signatory States of such deposit.
2. This Agreement shall come into force on the 1st day of July, 1968.

ARTICLE 25

Accession

1. Any Territory, though it be not a signatory hereto, may participate in this Agreement, subject to prior approval of the Council of Ministers of that Territory's participation in this Agreement on terms and conditions decided by the Council of Ministers. The instrument duly signifying the Agreement of the Government of the Territory to its participation in this Agreement on the terms and conditions decided as aforesaid shall be deposited with the Government of Saint Lucia which shall notify all other Member States. This Agreement shall have effect in relation to such Territory, as, and from the time indicated in the decision of the Council of Ministers.
2. The Council of Ministers may pursuant to any decision thereof in that behalf seek to procure the creation of an association consisting of Member States and any other state, union of territories, or international organisations and embodying such reciprocal rights and obligations, common actions and special procedures as may be appropriate.

ARTICLE 26

Withdrawal

Any Member State may withdraw from participation in this Agreement provided that the Government thereof gives twelve months notice in writing to the Government of Saint Lucia which shall notify the other Member States.

ARTICLE 27

Amendment

Except where provision for modification is made elsewhere in this Agreement, an amendment to the provisions of the Agreement shall be submitted to the Governments of Member States for acceptance if it is approved by decision of the Council of Ministers, and it shall have effect provided it is accepted by all such Governments. Instruments of acceptance shall be deposited with the Government of Saint Lucia which shall notify the other Member States.

ARTICLE 28

Annex

The annex to this agreement is an integral part of this Agreement.

ARTICLE 29

Legal Capacity, Privileges and Immunities

1. The legal capacity, 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 Agreement.

2. The Council of Ministers, acting on behalf of the Common Market, may conclude with the Government of the State in which the headquarters will be situated an agreement relating to the legal capacity and the privileges and immunities to be recognised and granted in connection with the Common Market.

IN WITNESS WHEREOF the undersigned duly authorised thereto by their respective Governments, have signed this Agreement.

Done in single copy at Grenada this 11th day of June, 1968.

For the Government of Antigua:

V.C. BIRD

For the Government of Dominica:

E.O. LEBLANC

For the Government of Grenada:

E.M. GAIRY

For the Government of Montserrat:

For the Government of Saint Christopher, Nevis and Anguilla:

ROBERT L. BRADSHAW

For the Government of Saint Lucia:

W.G. MALLET

For the Government of Saint Vincent:

R. MILTON CATO.

ANNEX A

AGREEMENT ESTABLISHING

THE

EAST CARIBBEAN COMMON MARKET

Rules regarding Market Area origin for tariff purposes

For the purpose of determining the origin of goods under Article 6 and for the application of that Article, the following Rules shall be applied.

Rule 1— Interpretative Provisions

1. In determining the place of production of marine products and goods produced therefrom, a vessel of a Member State shall be regarded as part of that

State. In determining the place from which goods have been consigned, marine products taken from the sea or goods produced therefrom at sea shall be regarded as having been consigned from a Member State if they were taken by or produced in a vessel of a Member State and have been brought direct to the Market Area.

2. A vessel which is registered shall be regarded as a vessel of the Member State in which it is registered.

3. "Materials" includes products, parts and components used in the production of the goods.

4. Energy, fuel, plant, machinery and tools used in the production of goods within the Market Area, and materials used in the maintenance of such plant, machinery and tools, shall be regarded as wholly produced within the Market Area when determining the origin of those goods.

5. "Produced" in sub-paragraph (c) of paragraph 1 of Article 6 and a "process of production" in paragraph 2 of that Article include the application of any operation or process, with the exception of any operation or process which consists only of one or more of the following—

- (a) packing, wherever the packing materials may have been produced;
- (b) splitting up into lots;
- (c) sorting and grading;
- (d) marking;
- (e) putting up into sets.

6. The term "producer" includes a grower and a manufacturer and also a person who supplies his goods otherwise than by sale to another person and to whose order the last process in the course of the manufacture of the goods is applied by that other person.

Rule 2—Goods wholly produced within the Market Area

For the purposes of sub-paragraph (a) of paragraph 1 of Article 6, the following are among the products which shall be regarded as wholly produced within the Market Area—

- (a) mineral products extracted from the ground within the Market Area;
- (b) vegetable products harvested within the Market Area;
- (c) live animals born and raised within the Market Area;
- (d) products obtained within the Market Area from live animals;
- (e) products obtained by hunting or fishing conducted within the Market Area;

-
- (f) marine products taken from the sea by a vessel of a Member State;
- (g) used articles fit only for the recovery of minerals, provided that they have been collected from users within the Market Area;
- (h) scrap and waste resulting from manufacturing operations within the Market Area;
- (i) goods produced within the Market Area exclusively from one or both of the following—
- (1) products within sub-paragraphs (a) to (h);
 - (2) materials containing no element imported from outside the Market Area or of undetermined origin.

Rule 3—Application of Percentage Criterion

For the purposes of sub-paragraph (c) of paragraph 1 of Article 6—

(a) Any materials which meet the conditions specified in sub-paragraph (a) or (b) of paragraph 1 of that Article shall be regarded as containing no element imported from outside the Market Area.

(b) The value of any materials which can be identified as having been imported from outside the Market Area shall be their C.I.F. value accepted by the customs authorities on clearance for home use, or on temporary admission, at the time of last importation into the Member State where they were used in a process of production, less the amount of any transport costs incurred in transit through other Member States.

(c) If the value of any materials imported from outside the Market Area cannot be determined in accordance with sub-paragraph (b) of this Rule, their value shall be the earliest ascertainable price paid for them in the Member State where they were used in a process of production.

(d) If the origin of any materials cannot be determined, such materials shall be deemed to have been imported from outside the Market Area and their value shall be the earliest ascertainable price paid for them in the Member State where they were used in a process of production.

(e) The export price of the goods shall be the price paid or payable for them to the exporter in the Member State where the goods were produced, that price being adjusted, where necessary, to an f.o.b. basis in that Member State.

(f) The value under sub-paragraphs (b), (c), or (d) or the export price under sub-paragraph (e) of this Rule may be adjusted to correspond with the amount which would have been obtained on a sale in the open market between buyer and seller independent of each other. This amount shall also be taken to be the export price when the goods are not subject of a sale.

Rule 4—Unit of Qualification

1. Each article in a consignment shall be considered separately.

2. For the purposes of paragraph 1 of this Rule—

(a) where the original Standard International Trade Classification specifies that a group, set or assembly of articles is to be classified within a single item, such a group, set or assembly shall be treated as one article;

(b) tools, parts and accessories which are imported with an article, and the price of which is included in that of the article or for which no separate charge is made, shall be considered as forming a whole with the article, provided that they constitute the standard equipment customarily included on the sale of articles of that kind;

(c) in cases not within sub-paragraphs (a) and (b), goods shall be treated as a single article if they are so treated for purposes of assessing customs duties by the importing Member State.

3. An unassembled or disassembled article which is imported in more than one consignment because it is not feasible for transport or production reasons to import it in a single consignment shall, if the importer so requests, be treated as one article.

Rule 5—Segregation of materials

1. For those products or industries where it would be impracticable for the producer physically to segregate materials of similar character but different origin used in the production of goods, such segregation may be replaced by an appropriate accounting system, which ensures that no more goods received Market Area tariff treatment than would have been the case if the producer had been able physically to segregate the materials.

2. Any such accounting system shall conform to such conditions as may be agreed upon by the Member States concerned in order to ensure that adequate control measures will be applied.

Rule 6—Treatment of mixtures

1. In the case of mixtures, not being groups, set or assemblies of separate articles dealt with under Rule 4, a Member State may refuse to accept as being of Market Area origin any product resulting from the mixing together of goods which would qualify as being of Market Area origin with goods which would not so qualify, if the characteristics of the products as a whole are not essentially different from the characteristics of the goods which have been mixed.

2. In the case of particular products where it is, however, recognised by Member States concerned to be desirable to permit mixing of the kind described in the foregoing paragraph, such products shall be accepted as of Market Area

origin in respect of such part thereof as may be shown to correspond to the quantity of goods of Market Area origin used in the mixing, subject to such conditions as may be agreed upon.

Rule 7— Treatment of Packing

1. Where for purposes of assessing customs duties a Member State treats goods separately from their packing, it may also, in respect of its imports consigned from another Member State, determine separately the origin of such packing.

2. Where paragraph 1 of this Rule is not applied, packing shall be considered as forming a whole with the goods and no part of any packing required for their transport or storage shall be considered as having been imported from outside the Market Area, when determining the origin of the goods as a whole.

3. For the purpose of paragraph 2 of this Rule, packing with which goods are ordinarily sold by retail shall not be regarded as packing required for the transport or storage of goods.

Rule 8— Documentary Evidence

1. A claim that goods shall be accepted as eligible for Market Area tariff treatment shall be supported by appropriate documentary evidence of origin and consignment. The evidence of origin shall consist of either—

(a) a declaration of origin completed by the last producer of the goods within the Market Area, together with a supplementary declaration completed by the exporter in cases where the producer is not himself or by his agent the exporter of the goods.

(b) a certificate given by a government authority or authorised body nominated by the exporting Member State and notified to the other Member States together with a supplementary declaration completed by the exporter of the goods.

These declarations, certificates and supplementary declarations shall be in such form as may be agreed by the Governments of all the Signatory States, and a copy of such Agreement shall be deposited with the Government of Saint Lucia by which certified copies shall be transmitted to all other signatory and participating States. The agreed forms shall, for the purposes of paragraph 5 of Article 6 be deemed to form part of this Annex.

2. The exporter may choose either of the forms of evidence referred to in paragraph 1 of this Rule. Nevertheless the authorities of the country of exportation may require that certain categories of goods and evidence of origin shall be furnished in the form indicated in sub-paragraph (b) of that paragraph.

3. In cases where a certificate of origin is to be supplied by a governmental authority or an authorised body under sub-paragraph (b) of paragraph 1 of this Rule, that authority or body shall obtain a declaration as to the origin of the goods given by the last producer of the goods within the Market Area. The governmental authority or the authorised body shall satisfy themselves as to the accuracy of the evidence provided; where necessary they shall require the production of additional information, and shall carry out any suitable check. If the authorities of the importing Member State so require, a confidential indication of the producer of the goods shall be given.

4. Nominations of authorised bodies for the purpose of sub-paragraph (b) of paragraph 1 of this Rule, may be withdrawn by the exporting Member State if the need arises. Each Member State shall retain, in regard to its imports, the right of refusing to accept certificates from any authorised body which is shown to have repeatedly issued certificates in an improper manner, but such action shall not be taken without adequate prior notifications to the exporting Member State of the grounds for dissatisfaction.

5. In cases where the Member States concerned recognise that it is impracticable for the producer to make the declaration of origin specified in sub-paragraph (a) of paragraph 1 or in paragraph 3 of this Rule, the exporter may make that declaration in such form as those Member States may for the purpose specify.

6. The Council of Ministers may decide that further or different provisions concerning evidence of origin of or consignment shall apply to particular categories of goods or classes of transactions.

Rule 9—Verification of Evidence of Origin

1. The importing Member State may as necessary require further evidence to support any declaration or certificate of origin furnished under Rule 8.

2. The importing Member State shall not prevent the importer from taking delivery of the goods solely on the grounds that it requires such further evidence, but may require security for any duty or other charge which may be payable.

3. Where, under paragraph 1 of this Rule, a Member State has required further evidence to be furnished, those concerned in another Member State shall be free to produce it to a governmental authority or an authorised body of the latter State, who shall, after thorough verification of the evidence, furnish an appropriate report to the importing Member State.

4. Where it is necessary to do so by reason of its legislation, a Member State may prescribe that requests by the authorities of importing Member States for further evidence from those concerned in the Member State shall be addressed to a specified governmental authority, who shall after thorough verification of the evidence furnish an appropriate report to the importing Member State.

5. If the importing Member State wishes an investigation to be made into the accuracy of the evidence which it has received, it may make a request to that effect to the other Member State or States concerned.

6. Information obtained under the provisions of this Rule by the importing Member State shall be treated as confidential.

Rule 10—Sanction

1. Member States undertake to introduce legislation, making such provision as may be necessary for penalties against persons who, in their territory, furnish or cause to be furnished a document which is untrue in a material particular in support of a claim in another Member State that goods should be accepted as eligible for Market Area tariff treatment. The penalties applicable shall be similar to those applicable in cases of untrue declarations in regard to payment of duty on imports.

2. A Member State may deal with the offence out of court, if it can be more appropriately dealt with by a compromise penalty or similar administrative procedure.

3. A Member State shall be under no obligation to institute or continue court proceedings, or action under paragraph 2 of this Rule—

(a) if it has not been requested to do so by the importing Member State to which the untrue claim was made; or

(b) if, on the evidence available, the proceedings would not be justified.

SCHEDULE

BASIC MATERIALS LIST

These materials may always be regarded as originating wholly within the "Associated Area", or, as the case may be, when used in the state described in this list in a process of production within the "Common Market Area".

Note: The classification used in this list is in accordance with the original Standard International Trade Classification.

041-01 Wheat and spelt (including meslin) unmilled.

LAWS OF ANTIGUA AND BARBUDA

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	043-01	Barley unmilled.
	045-01	Rye unmilled.
	045-02	Oats unmilled.
	045-09	Cereals unmilled (except rice and corn).
	046-01	Semolina.
	048-02	Malt.
	051-04	Apples.
	051-05	Grapes.
	054-01	Potatoes (including sweet).
	054-03	Hop Cones fresh or dried.
	061-09	Lactose, glucose, maltose, caramel.
	072-01	Cocoa beans (except flavored cocoa).
	075-01	Pepper (except sweet pepper, unground) and pimento whether unground, ground or otherwise prepared.
	075-02	Spices other than ginger, cinnamon, nutmeg and mace.
	221-05	Linseed.
	231-02	Synthetic rubbers and rubber substitutes.
	244-01	Cork, raw and waste (including natural cork in blocks and sheets).
	261	Silk.
	262	Wool and other animal hair.
	264	Jute, including jute cuttings and waste.
	265	Vegetable fibres except cotton, jute and coir fibre.
	272-06	Sulphur.
	272-16	Natural graphite.
	284-01	Non-ferrous metal scrap.
Ex	291-09	Sponges, fish eggs (not for food) bristles, hair and their waste.
	292-02	Natural gums, resins, balsam and lacs.
	292-09	Kapok.
Ex	312-01	Crude petroleum.
	411-01	Oils from fish and marine animals.
	411-02	Animal oils, fats and grease (excluding lard).
	412-01	Linseed oil.
	412-11	Castor Oil.
	413-02	Hydrogenated oils and fats.
	413-04	Waxes of animals or vegetable origin.
Ex	511-09	Calcium carbide, sodium pyrophosphate and white lead.
	531-01	Coal tar, dyestuffs and natural indigo.
	532-01	Dyeing extracts.
	532-02	Tanning extracts.
	532-03	Synthetic tanning materials.
	551-01	Essential vegetable oils (except lime, bay, pimento, nutmeg and orange oils).
	599-01	Synthetic plastic materials in blocks, sheets, rods, tubes, powder and other primary forms.
	599-04	Casien, albumen, gelatin, glue.
	611	Leather with the exception of sole leather.

	651	Textile yarn and thread.
	652	Cotton Fabrics.
	689	Textile Fabrics, other than cotton fabrics.
Ex	655-06	Twine of cotton.
Ex	665-06	Twine of hemp.
	671-01	Silver, unworked and partly worked.
	671-02	Platinum and other metal of platinum group, unworked and partly worked.
	672-03	Pearls unworked.
	681-01	Pig iron and sponge iron (including iron and steel powder).
	681-02	Ferro-alloys.
	681-03	Ingots, blooms, slabs, billets, sheet bars and tin-plate bars of iron and steel and equivalent primary forms.
	681-04	Iron and steel bars
	681-05	Universals, plates and sheets of iron and steel uncoated.
	681-06	Hoop and strip of iron and steel (including tube strips and steel strip for springs) coated or not.
	681-13	Steel tubes and fittings, welded or drawn.
	681-14	Pipes and fittings, cast whether gray iron or malleable iron.
	682-01	Copper and alloys not refined and refined unwrought.
	682-02	Copper and alloys of copper, worked (bars, rods, plates, sheets, wire, pipes, tubes, casting and forgings).
	683-01	Nickle and nickle alloys unwrought.
	683-02	Nickle and nickle alloys, worked (bars, rods, plates, sheets, wire, pipes, tubes, casting and forgings).
	684-01	Aluminium and aluminium alloys unwrought.
	684-02	Aluminium and aluminium alloys, worked (bars, rods, plates, sheets, wire, pipes, tubes, casting and forgings).
	685-01	Lead and lead alloys unwrought.
	685-02	Lead and lead alloys, worked (bars, rods, plates, sheets, wire, pipes, tubes, casting and forgings).
	689-01	Non-ferrous base metals employed in metallurgy and their alloys, n.e.s. unwrought.
	689-02	Non-ferrous-base metals employed in metallurgy and their alloys, n.e.s. worked (bars, rods, sheets, wire, pipes, tubes, castings, and forgings).
Ex	699-05	Expanded metal of iron and steel.
Ex	699-06	Expanded metal of aluminium, copper and other non-ferrous base metal.
	899-05	Buttons and studs of all materials, except those of precious metals and precious stones.

ANNEX II

**AMENDMENT TO EAST CARIBBEAN COMMON
MARKET AGREEMENT**

Market Area Origin for Tartff Purposes

THE GOVERNMENTS OF THE SIGNATORY STATES

HAVE AGREED:

To amend Article 6—1. (c) of the East Caribbean Common Market Agreement by deleting the figure 50 and substituting therefor the figure 60, to read as follows:

that they have been produced within the Market Area and that the value of any materials imported from outside the Market Area or of undetermined origin which have been used at any stage of the production of such goods does not exceed 60 per centum of the export price of such goods.

(Done in 1975)

ANNEX III

**THE EAST CARIBBEAN COMMON MARKET
(AMENDMENT) AGREEMENT 1981**

THE GOVERNMENTS OF THE SIGNATORY STATES

RECOGNISING the constitutional changes that have taken place in some of the Member Territories since the signing of the Agreement establishing the East Caribbean Common Market in 1968;

DESIRING that the said Agreement should be amended to reflect these constitutional changes;

HAVE AGREED as follows—

- To amend the Agreement Establishing the East Caribbean Common Market the said amendment to be called the East Caribbean Common Market (Amendment) Agreement, 1981.

2. Amendment of Article 1 of the Agreement.

Article 1 of the Agreement is amended by repealing paragraphs 2 and 3 and substituting therefor the following—

"2. The Members of the Common Market (hereinafter referred to as "Member Territories") shall be the Territories on behalf of the Governments of which this Agreement is ratified in accordance with Article 24 and such other Territories as participate therein by virtue of Article 25."

"3. For the purposes hereof—

"Member Territories" means Antigua, Dominica, Grenada, Montserrat, St. Kitts-Nevis, Saint Lucia and Saint Vincent and The Grenadines.

3. Amendment of the Agreement.

The Agreement is amended by deleting the words "Member State" wherever they occur in the text and substituting therefor the words "Member Territory".

4. This amending Agreement shall be ratified by the Member Territories in accordance with their respective constitutional processes. Such instruments of ratification shall be deposited with the Government of Saint Lucia on or before the First day of October, 1981. This Agreement shall come into force on the Fifth day of October, 1981.

5. For the purposes of this amending Agreement the words "Member Territories" shall have the same meaning as that contained in the foregoing amendment.

IN WITNESS WHEREOF the undersigned Plenipotentiaries sign this Agreement in the name of their respective Governments, at _____, this _____ day of _____, one thousand nine hundred and eighty-one.

For the Government of:

Antigua

Dominica

Grenada

Montserrat
St. Kitts/Nevis
Saint Lucia
Saint Vincent and The Grenadines
