

INFORMATION NOTE ON:

Trade and Economic Cooperation Agreement between the Caribbean Community (CARICOM) and the Government of the Republic of Cuba

The Caribbean Community (CARICOM) and the Government of the Republic of Cuba signed the Trade and Economic Cooperation Agreement (TECA) between them, on 5th July 2000. The Agreement provided for further negotiations between the Parties in 2001, to convert the partial scope Agreement to a Free Trade Agreement (FTA). Negotiations for the establishment of the FTA have not yet taken place.

The Agreement was inspired by the need to promote an expanded economic space for regional trade and investment, as well as to foster economic integration.

A Protocol Implementing the TECA; and the First Additional Protocol Implementing the TECA, were both signed on 15th June 2001. In addition, a Protocol providing for the provisional application of the Agreement was signed in December 2002.

The Protocol Implementing the TECA amended the original Agreement by deletions from, as well as additions to, the list of products for preferential access under the Agreement; while the First Additional Protocol to the TECA amended the original Agreement by way of a bilateral agreement between the Parties, on reciprocal promotion and protection of investments, and an Agreement on Protection of Intellectual Property Rights.

In October 2017, the Parties signed a Second Protocol to the TECA to give effect to amendments to the Agreement, relating to:

- i. the expansion of the list of goods which will be subject to preferential market access;
- ii. improvements to the general Rules of Origin in relation to insufficient working and processing and verification of origin, and;
- iii. the establishment of Contact Points in each Party to facilitate communications between them on trade barriers, new trade and investment opportunities and other matters covered by the Agreement.

Objectives of the Agreement

The Agreement was developed to strengthen the commercial and economic relations between the Parties. This would be accomplished through a number of activities, including, *inter alia*:

- The promotion and expansion of trade in goods and services, by *inter alia*, free access to the markets of the Parties; elimination of non-tariff barriers; harmonisation of technical, sanitary and phyto-sanitary measures; and a system of Rules of Origin;
- Establishment of financial arrangements to facilitate progressive development of two-way trade;
- Progressive liberalisation of trade in services;

- Encouragement of investments in each other's market; and development of mechanisms to promote and protect the investments made;
- Provision of facilities for the establishment and operation of joint ventures and other forms of economic co-operation activities;
- The discouragement of anti-competitive business practices; and
- The continuity and progress of work initiated within the CARICOM-Cuba Joint Commission.

Joint Commission

The Joint Commission supervises the implementation and administration of the Agreement, and ensures compliance with the provisions of the Agreement. The Joint Commission is also responsible for resolving any disputes arising from implementation and execution of the Agreement. In addition, the Commission establishes Committees and Expert Groups, delegates responsibilities to them and supervises their work. The Commission also has the responsibility to review the Agreement periodically, evaluate its performance, and recommend appropriate measures for compliance with its provisions. The Joint Commission is required to meet at least once a year, and meetings are to be held alternately in a CARICOM Member State and Cuba, or at a mutually agreed venue.

Market Access

The Parties to this Agreement agreed to the implementation of a programme of trade liberalisation between them, taking into account the differences in the levels of development between Cuba and the Less Developed Countries (LDCs) of CARICOM. In this regard, the Less Developed Countries (LDCs) of CARICOM are not required to grant preferential access in favour of Cuba.

Under the Agreement, both CARICOM and Cuban exporters enjoy preferential access to each other's market on separate lists of products. In each case there is a list of products on which total duty free access is granted. Annex I to the Agreement sets out the list of goods from CARICOM which receive total duty free access on entry into Cuba; while Annex II sets out the list of goods from Cuba which receive total duty free access on entry into CARICOM.

Note

These Annexes (I and II) were amended by the Protocol Implementing the Agreement, through additions to, and deletions from, the lists. The lists were further amended by the Second Protocol to the Agreement, by further additions and deletions.

The Market access arrangements also provide for phased reduction of duty to zero per cent. Annex III to the Agreement sets out the list of items originating in CARICOM which will receive phased reduction of duty on entry into Cuba. At Annex IV are the goods originating in Cuba which receive phased reduction of duty on entry into CARICOM.

Note

These Annexes (III and IV) were amended by the Protocol Implementing the Agreement, by additions to, and deletions from, the lists. The lists were further amended by the Second Protocol to the Agreement, by addition to the list of products originating in Cuba on which CARICOM will grant phased reduction of duties.

Treatment of Goods produced in Free Trade Zones/Export Processing Zones

Under this Agreement, goods produced in or shipped from Free Trade Zones/Export Processing Zones are subject to the prevailing rate of duty.

Rules of Origin

The Rules of Origin which apply to imports under the Agreement, are based on the general principle of substantial transformation, characterised by the change of Customs classification heading. In order for goods to benefit from preferential treatment provided under the Agreement, a Certificate in the format stipulated in the Agreement, must be prepared to accompany the goods. The Certificate of Origin will include a declaration by the exporter or the final producer that the origin requirements have been met; and a certificate by the authorised body of the exporting country that the declaration by the exporter or the final producer is accurate.

Technical Standards

The Joint Commission has the responsibility to review the technical regulations of the Parties and take measures as are necessary to ensure that these regulations do not constitute barriers to trade between the Parties to the Agreement.

General Exemptions

These are measures which can be adopted or enforced by Cuba or any CARICOM Member State, in the following circumstances:

- To protect public decency;
- To protect human, plant and animal health, and to preserve the environment;
- To protect public order;
- To control the production, distribution and use of narcotics and psychotropic substances;
- To secure compliance with the laws and regulations pertaining to customs or marketing;
- To secure compliance with the laws and regulations that govern foreign investments;
- To protect intellectual property rights or prevent dishonest practices;
- In connection with the production of and trade in gold and silver;
- In connection with goods produced by prison labour;
- To protect national treasures of artistic, historical or archeological value;
- To prevent or alleviate any critical food shortage; or
- In connection with the preservation of non-renewable natural resources.

Economic Cooperation

Under this Agreement, the Parties agree to promote mutual economic and social cooperation, in support of their economic integration and the economic and social development of each Party. In this regard, the Parties have agreed to develop cooperation in the development of human resources, science and technology, meteorology and natural disaster preparedness; and culture.

Trade Promotion

As a means of supporting the implementation of the liberalisation programmes, the Parties agreed to establish trade promotion programmes, facilitate official and business missions, organise trade fairs and exhibits, exchange information, conduct market research projects and any other related activities. In pursuance of the objective of the Agreement, Cuba and CARICOM Member States have also agreed to promote the involvement of their respective business sector, by exploring the establishment of a CARICOM-Cuba Business Council that reviews business opportunities, furnishes information and promotes trade.

Business Facilitation

In the area of business facilitation, CARICOM and Cuba agreed to take all necessary steps to facilitate investment and the expansion of trade in goods and services between them. In this regard, the Joint Commission has the responsibility to adopt a special programme of measures for the facilitation of business, including those designed to achieve and maintain transparency and to encourage information exchange, as well as to harmonise customs procedures and technical standards.

Trade Financing

Recognising the essential role of trade financing in the development of trade, the Parties agreed to take steps to encourage banks and other financial institutions engaged in foreign trade in the respective territories, to increase their support to exporters/importers, for the purpose of expanding trade between the Parties. The support contemplated includes:

- Establishment of lines of credit;
- Confirmation of letters of credit;
- Provision of guarantees;
- Discounting of bills of exchange, commercial paper and similar instruments;
- Provision of pre-shipment and post shipment finance;
- Export credit insurance.

Trade in Services

The Agreement has a built-in agenda in respect of Trade in Services. In recognition of the importance of trade in services for the development of their respective economies, the Parties agreed to exchange information on their services sector, as well as views on possible elements for a service regime. The Agreement also provides that upon completion of the implementation of the CARICOM Services regime, the Parties will commence as soon as possible, negotiations for the establishment of a regime for trade in services between the Parties. The following were identified as areas for consideration in the establishment of the regime for trade in services:

- Tourism and trade-related services;
- Entertainment services;
- Financial services;
- Professional services;
- Construction and related engineering services;
- Computer and related services;
- Telecommunication services;
- Transport services.

Pending the conclusion of negotiations for the establishment of a regime for trade in services, and in accordance with the principles of the General Agreement on Trade in Services (GATS), each Party is to accord to services and service suppliers of the other Party, treatment no less favourable than it accords to like services and service suppliers of any other country.

Tourism

With respect to Tourism, the Parties agreed, *inter alia*:

- to prepare and promote jointly, tourism products and programmes to encourage multi-destination travel, to increase the number of visitors and to diversify and develop the tourism product;
- to provide to each other, technical assistance in the area of human resource development, foreign language training, hospitality training, tourism planning and development and hotel management;
- to examine the feasibility of establishing a Regional Centre for training and development of management and supervisory personnel for the sector;
- to cooperate in the area of passenger transport and to keep under review, the adequacy of airline and cruise ship services in the Caribbean;
- to consider joint venture arrangements in the area of cruise shipping;
- to undertake cultural exchanges and the exchange of entertainers on a commercial basis;
- to encourage the participation of the business sector in special programmes and forums dealing with the supply of goods and services for the tourism, travel-related and entertainment sectors.

Transportation

As a means of facilitating trade between CARICOM and Cuba, the Parties recognised the importance of transportation services, and in this regard, agreed to work on action which may result in:

- dissemination of information on air and maritime transport services with the aim of increasing traffic between the Parties;
- creating joint ventures or other modalities of economic association in the area of international transportation;
- organising a network of cargo agents for maritime transportation from the territories of the Parties;
- applying flexible and attractive tariffs for the domestic port services by Member States of CARICOM and of Cuba;

- establishing specific agreements to facilitate maritime and air transport between Member States of CARICOM and Cuba;
- exploring the possibilities of developing import-export transshipment hubs in order to support trade between the Parties and third party markets;
- establishing cooperative ventures among air and maritime transport authorities on matters relating to the safe, efficient and reliable provision of international transportation services within the territories of the Parties.

Safeguards

As Members of the WTO, the Parties have recourse to the Agreement on Safeguards in the WTO. Where imports by one Party from the other, are in such amounts as to seriously affect production of similar goods in the importing country, the importing country may apply a safeguard, by temporarily suspending tariff preferences for the specific product. These measures shall be applicable for an initial period not exceeding one year and can be renewed for another year if necessary. The importing country applying the safeguard or wishing to have it renewed shall call a meeting of the Joint Commission for consultations on an application or renewal.

*** Note ***

No consensus is required for the application or renewal of safeguard measures.

Unfair Trade Practices

Where unfair trade practices such as subsidies and dumping take place, resulting in injury, material injury or threat of injury to the domestic industry of a Party, the affected Party may apply corrective measures, provided they are in conformity with the Agreement on Subsidies and Countervailing Measures and the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade (GATT) 1994, contained in the Agreement establishing the WTO.

Anti-Competitive Business Practices

The Parties agreed to discourage anti-competitive business practices, while at the same time working to establish measures to facilitate and promote competition policy and ensure their application between the Parties.

Settlement of Disputes

Where disputes arise relating to interpretation, application, execution or non-compliance with the provisions of the Agreement, with the exception of matters covered in the Annex on Investments, the first option at resolution is through informal consultations. Where solutions are not arrived within 30 days, or in the case of perishables within 10 days, the aggrieved Party may request the other Party, in writing, for the intervention of the Joint Commission. The Joint Commission shall meet within 15 days of receipt of a request and, in the case of perishables, within 5 days of receipt of a request. The Joint Commission is required to render its decision within 60 days of the date of the meeting.

Some key Market Access information!

The Agreement provides for duty-free treatment on approximately 1,400 products from CARICOM that would benefit from concessions by Cuba. In this regard, the Agreement provides for preferential market access for CARICOM, for Meat and edible meat offal products; fish; Dairy products and birds' eggs; vegetables; melons including watermelon and pawpaw; spices; rice; wheat and Cereal flour products; crude and refined coconut oil; margarine; soya bean oil and its fractions; sugar; malt extract; preparations of vegetables and fruits, among others.

A limited number of agricultural products, namely potatoes, melon, papaya and rice, from CARICOM, are subject to seasonal trading arrangements when imported into Cuba.

Under the Second Protocol, Cuba further expanded duty free access to about 350 additional items including beer, rum, cement, soap and apparel.

Summary of CARICOM's Trade Performance with Cuba (2010-2016)*

US\$'000

Year	Imports	Exports	Balance
2010	8,607	24,705	16,100
2011	8,699	24,094	15,397
2012	12,145	15,220	3,076
2013	19,853	51,220	31,368
2014	10,770	7,556	-3,212
2015	16,018	9,752	-6,266
2016	18,483	74,415	55,932

Source: CARICOM Secretariat Regional Statistics Programme

- Values indicated comprise both trade under the Agreement and trade not covered by the Agreement