

No. 22434

MULTILATERAL

Agreement establishing the East Caribbean Common Market (with annex). Concluded at Grenada on 11 June 1968

Authentic text: English.

Registered by Saint Lucia on 8 November 1983.

MULTILATÉRAL

Accord portant création du Marché commun des Caraïbes orientales (avec annexe). Conclu à la Grenade le 11 juin 1968

Texte authentique : anglais.

Enregistré par Sainte-Lucie le 8 novembre 1983.

AGREEMENT¹ 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 Association² 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 I. 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).

¹ Came into force in respect of the following Governments on 1 July 1968, following the deposit with the Government of Saint Lucia of their instruments of ratification on 28 June 1968 or before, in accordance with article 24:

<i>Government</i>	<i>Date of deposit of the instrument</i>
Antigua	27 June 1968
Grenada	26 June 1968
Saint Kitts	22 June 1968
Saint Lucia	24 June 1968
Saint Vincent	27 June 1968

On the international plane, the Agreement came into force on 19 September 1983, the date on which the above-mentioned signatory Governments had become independent, and had indicated that they would succeed provisionally to all treaties concluded prior to their independence.

Subsequently, Montserrat deposited with the Government of Saint Lucia an instrument of accession on 2 April 1969, with effect from the same date.

² United Nations, *Treaty Series*, vol. 772, p. 2.

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) Increased 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 this 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 fields 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 organizations 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, except 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 arrangements 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 payments 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 recommendations 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 decision 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 workings 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 those 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 examining 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 obliga-

tions 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 organization 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 a 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 for 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 (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 paragraphs 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

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 deter-

mining 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 materials, 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 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 the 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, sets 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; or
- (b) A certificate given by a governmental 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 for certain categories of goods [that] 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 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 or of 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. SANCTIONS

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 "Association 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
- 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 (excluding 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 animal 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, power 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
- 653 Textile fabrics, other than cotton fabrics
- Ex 655-06 Twine of cotton
- Ex 655-06 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, castings and forgings)
- 683-01 Nickel and nickel alloys unwrought
- 683-02 Nickel and nickel alloys, worked (bars, rods, plates, sheets, wire, pipes, tubes, castings and forgings)
- 684-01 Aluminium and aluminium alloys unwrought
- 684-02 Aluminium and aluminium alloys, worked (bars, rods, plates, sheets, wire, pipes, tubes, castings and forgings)
- 685-01 Lead and lead alloys unwrought
- 685-02 Lead and lead alloys, worked (bars, rods, plates, sheets, wire, pipes, tubes, castings 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 metals
 - 899-05 Buttons and studs of all materials, except those of precious metals and precious stones
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