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Culture in the CARIFORUM-European Union Economic Partnership Agreement

Rebalancing trade flows between Europe and the Caribbean?

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and Keith Nurse

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Foreword

The provision on preferential treatment for developing countries (Article 16) is known to be one the most binding and powerful of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), now ratified by 145 countries around the world and the European Union.

Preferential treatment policies and measures are understood as those that either promote the mobility of artists and other cultural professionals and practitioners, or improve market access for cultural goods and services from developing countries.

The potential of Article 16 can be key to realizing the 2005 Convention's objectives and can be developed in different directions that would address individuals, industries and institutions[1].

The goal of preferential treatment measures is to facilitate the mobility and exchange of artists and cultural professionals from the global South, through, for example, simplified procedures for visas or lower visa costs. Aimed at the cultural and creative industries, preferential treatment measures are to improve market access for cultural goods and services from developing countries through capacity building for cultural entrepreneurs and organizations that promote the economic and trade dimension of the sector and through specific support schemes to open market access, such as co-distribution agreements. Finally, preferential treatment measures are to be addressed beyond the culture sector, in other international institutions or forums, as well as through other policies and instruments such as bilateral, regional, multilateral trade agreements.

While the potential of Article 16 in contributing to dynamic cultural exchanges with long-lasting effects in both developed and developing countries is evident, its actual implementation and impact on the ground remain underdeveloped and underexplored.

1. See "Culture in Treaties and Agreements. Implementing the 2005 Convention in Bilateral and Regional Trade Agreements", Véronique Guèvremont and Ivana Otašević, UNESCO, 2017.

This study conducted by Mira Burri and Keith Nurse, which examines the Economic Partnership Agreement (EPA) concluded in October 2008 between the European Union (EU) and CARIFORUM States, seeks to fill this gap.

This agreement was one of the first North/South regional trade agreements compatible with World Trade Organization (WTO) rules seeking to effectively improve market access opportunities and ensure wider and more balanced exchanges. It was also the first to implement many of the 2005 Convention objectives through a dedicated Protocol on Cultural Cooperation (PCC).

A detailed analysis of the first five years of EPA implementation (2008-2013) can be found in the external study conducted for the EU in 2013-2014[2]. A second evaluation of the implementation and impact of the agreement (2008-2018) will be conducted in 2020. However, culture was never included within the scope of analysis.

A joint system for monitoring the PCC is now being contemplated by both EPA partners. This study is a modest attempt to gather new information and data, analyse advances and challenges, collect testimonies from key policy and industry stakeholders, and offer some recommendations for policy action.

This review, funded under the UNESCO-Aschberg Programme for artists and cultural professionals, concerns the 146 Parties to the 2005 Convention, who have committed to address issues of culture and sustainable development in their trade agreements.

The objective is to produce a better understanding of the degree to which the 2005 Convention can be used within a trade framework in order to provide developing countries with insight that can be used in their negotiating spaces. It is also designed to inform policy action for the attainment of the UN 2030 Agenda on Sustainable Development, in relation to SDG Goals 8[3] and 10[4] for inclusive and sustainable economic growth and reduced inequalities among countries.

2. Monitoring the implementation and results of the CARIFORUM-EU EPA, *http://trade.ec.europa.eu/doclib/docs/2014/october/tradoc_152825.pdf*

3. Target 8.A: Increase Aid for Trade support for developing countries, in particular least developed countries, including through the Enhanced Integrated Framework for Trade-Related Technical Assistance to Least Developed Countries.

4. Target 10.A: Implement the principle of special and differential treatment for developing countries, in particular least developed countries, in accordance with World Trade Organization agreements.

The authors reveal that all opportunities arising from the CARIFORUM-EU EPA provisions have not been fully exploited and that the Protocol on Cultural Cooperation has yet to be activated – especially those related to the movement of artists and co-productions in the audiovisual sector. Yet, the messages emanating from EU and CARIFORUM personalities also confirm an immense political will to increase efforts towards advocacy and operationalization.

This study therefore also acts as a wake-up call for awareness raising. This is why the 2005 Convention Secretariat is currently working with the UNESCO Chair on the Diversity of Cultural Expressions (Laval University, Quebec, Canada) to design a training module on preferential treatment in culture, for governmental officials, as well as trade negotiators, from developing countries.

Collecting data and sharing information and best practices from around the world is more critical than ever, especially at a time when the increasing dematerialization of the creative sectors is making it very challenging to obtain accurate data on the trade flows of cultural goods and services.

UNESCO, through its Global Report series "Re|Shaping Cultural Policies", will continue to monitor progress and advances[5]. To do so, it has revised the framework for Quadrennial Periodic Reports (QPRs) that Parties to the 2005 Convention submit every four years: specifically, Parties will be asked to report on the ways in which cultural goods and services are provided a special status in trade and investment agreements – including through preferential treatment provisions - to which they are signatories or which are under negotiation, and provide information on the introduction of cultural clauses related to e-commerce and digital products.

Determining impact is not an easy task. What were the expectations? Who is effectively engaged? How directly or indirectly are the impacts attributable to the implementation of an agreement?

5. The 2005 Convention's monitoring framework, under the "Treaties and Agreements" section, comprises three means of verification covering: special status for cultural goods and services; cultural clauses related to e-commerce and digital products; and preferential treatment provisions.

May this new issue of the "Policy and Research" series encourage researchers, policy actors and cultural professionals to engage further with UNESCO in order to explore the potential of the 2005 Convention and advance the position of culture in international trade debates.

Danielle Cliche

Secretary of the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions

Key Findings

- The CARIFORUM-EU Economic Partnership Agreement (EPA) is unprecedented in its link to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005 Convention) and in its attempt to include culture in a trade agreement.
- The CARIFORUM-EU EPA is the first regional trade agreement that aims to implement Article 16 of the 2005 Convention on preferential treatment for developing countries, by including specific provisions for trade in cultural and entertainment services and by adding a dedicated Protocol on Cultural Cooperation (PCC).
- The CARIFORUM-EU EPA aims to facilitate market access and preferential conditions for Caribbean cultural goods, services and practitioners and represents a higher level of commitments by the European Union (EU) than in the General Agreement on Trade in Services (GATS).
- Despite the significant commitments undertaken by the EU, the EPA has not substantially improved market entry and export earnings for CARIFORUM States thus far, nor has it redressed the imbalance in the trade in cultural goods and services between the two parties. The expected increase in cultural exchange, contributing to an increased diversity of cultural expressions, remains unseen.
- No dedicated funding or cultural cooperation programmes have been put in place to implement the EPA's cultural provisions.
- To improve market entry, both the EU and its Member States, as well as the participating CARIFORUM States must take decisive steps to mobilize creative industry actors in order to increase transparency and simplify procedures, particularly in cross-border mobility.

- There are certain short-term and long-term adjustments to be made in order to improve the implementation of the EPA, including activities to increase awareness, to improve dialogue between relevant institutions, and to develop tailored financial programmes and measures targeting the CARIFORUM creative industries.

- Complete ratification of the EPA by the EU and CARIFORUM Member States, combined with enhanced communication and exchanges among key strategic stakeholders at intergovernmental, governmental, industry and individual entrepreneur/artist levels, is necessary for long-term economic diversification, industrial upgrading, and sustainable cultural development.

- Effective implementation of preferential treatment provisions foreseen under the 2005 Convention, through the CARIFORUM-EU EPA, can decisively support the EPA signatories in attaining the 2030 Agenda on Sustainable Development Goals (SDGs), in particular SDG 8 (target 8.A on Aid for Trade) and SDG 10 (target 10.a on special and differential treatment for developing countries and least developed countries in accordance with the WTO Agreements).

- The implementation of the CARIFORUM-EU EPA occurs in the context of the creative economy's rapid technological transformation. This must be reflected in the Parties' instruments and strategies and contribute to a boost in digital entrepreneurship and market integration programmes.

Introduction

The CARIFORUM-EU Economic Partnership Agreement (EPA) is a free trade agreement concluded between CARIFORUM States (14 CARICOM countries[6] and the Dominican Republic) and the European Union (EU)[7]. It was signed in October 2008 and has been provisionally applied since December 2008[8]. The CARIFORUM-EU EPA replaces the trade provisions of the 2000 Cotonou Agreement, through which the EU unilaterally granted preference to the African, Caribbean and Pacific (ACP) countries, in compliance with World Trade Organization (WTO) rules. Upon signing the EPA, CARIFORUM became the first regional group within the ACP to secure a comprehensive agreement with the EU and its Member States and is the only EPA to include provisions on trade in services.

The CARIFORUM-EU EPA is a "deep" free trade agreement. This means that it includes all economic sectors and covers trade in goods and services, investment, trade-related issues, such as innovation, intellectual property and government procurement, sustainable development, as well as a comprehensive chapter on development cooperation. The agreement operates on a non-reciprocal basis – in the sense that the EU has opened its market to a much greater extent than the Caribbean States have. The Caribbean States have also benefitted from different transition periods, allowing for more time to implement the EPA. For trade in goods, the EPA reinforces and widens duty-free quota-free (DFQF) access for CARIFORUM goods into EU markets.

The CARIFORUM-EU EPA also contains a number of provisions and significant concessions in the services sectors, which is particularly important for the Caribbean – where in some countries, services represent more than 80% of GDP.

6. Antigua and Barbuda; Bahamas; Barbados; Belize; Dominica; Grenada; Guyana; Jamaica; Saint Kitts and Nevis; Saint Lucia; Saint Vincent and the Grenadines; Suriname; Trinidad and Tobago. Haiti signed the Agreement in December 2009 but has yet to ratify the EPA. All 28 EU Member States have signed the EPA with Croatia joining in 2017.

7. To date, 10 CARIFORUM States and 23 EU Member States have ratified the EPA.

8. The full text is available at: *http://ec.europa.eu/world/agreements/downloadFile.do?fullText=yes&treatyTransId=12969*

Here, and again on the basis of asymmetrical liberalization, the EU opened 94% of its services sectors. In many areas, the concessions go beyond what the EU has agreed upon under the WTO umbrella in the framework of the General Agreement for Trade in Services (GATS). The EPA provides improved market access for Caribbean firms and professionals in terms of cross-border trade, investment, consumption abroad and temporary movement of persons in business services, communications, construction, distribution, environmental, financial, transport, tourism and cultural and entertainment services.

Beyond these extensive concessions in the trade of services, the EPA contains one novelty with a potentially significant impact: the specific inclusion of the cultural sector in the trade agreement. The impetus for the EPA's new feature is directly linked to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (hereafter "2005 Convention"), which was adopted in 2005 and ratified by the EU, as a regional organization, in 2006.

Convention on the Protection and Promotion of the Diversity of Cultural Expressions

Article 16 – Preferential treatment for developing countries

Developed countries shall facilitate cultural exchanges with developing countries by granting, through the appropriate institutional and legal frameworks, preferential treatment to artists and other cultural professionals and practitioners, as well as cultural goods and services from developing countries.

Article 16 in the body of the 2005 Convention is particularly noteworthy, as it formulates a binding obligation for developed countries to "facilitate cultural exchanges with developing countries by granting, through the appropriate institutional and legal frameworks, preferential treatment to artists and other cultural professionals and practitioners, as well as cultural goods and services from developing countries." This new call for linking trade and culture and for rebalancing cultural exchanges triggered a major shift in the global trade discourse[9].

9. Keith Nurse, 'The Economic Partnership Agreement and the Creative Sector: Implications and Prospects for Cariforum' in *The Cariforum-EU Economic Partnership Agreement: A Practitioners' Analysis*, A. Beviglia Zampetti and J. Lodge (eds), Kluwer International, London, 2011, pp.149-163.

The EU, as a key actor in endorsing the objectives of the 2005 Convention, reacted accordingly and sought to adapt its trade policy. The CARIFORUM-EU EPA is the clearest expression of this shift and represents the first North-South regional trade instrument that takes into account the 2005 Convention's preferential treatment obligation, under Article 16, and the clauses on cooperation for development under Article 14. The CARIFORUM-EU EPA seeks to tackle the structural and asymmetrical imbalances in cultural exchanges by helping CARIFORUM States enhance local creative capacities, increase the competitiveness of their cultural creative goods and services, consolidate their regional integration and increase their participation in global trade.

The EPA advanced cultural aspects raised hopes of generating a dynamic of change towards economic diversification and strategic industrial upgrading in cultural trade

With the CARIFORUM-EU EPA, European countries granted market access to cultural and entertainment services for CARIFORUM artists and cultural professionals and annexed a special Protocol on Cultural Cooperation to facilitate partnerships and the exchange of cultural activities, goods and services, including in the audiovisual sector: "The CARIFORUM-EU partnership agreement created an important precedent, particularly since previous EU trade agreements contained virtually no reference to cultural cooperation. In this sense, it has shaped the basis for international cooperation on cultural issues and creative industries, taking into account the engagement of the international community as regards the implementation of the 2005 Convention and their commitment to respect and promote cultural diversity[10]".

The EPA advanced cultural aspects raised hopes of generating a dynamic of change towards economic diversification and strategic industrial upgrading, in general and for concrete outcomes, in cultural trade[11].

10. Edna dos Santos-Duisenberg, in *The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, S. von Schorlemer and P.-T. Stoll (eds), Springer, 2012, 386.

11. See Keith Nurse, Allyson Francis and Keron Niles, 'The EPA and Beyond: The Case for Industrial and Innovation Policy', *Journal of Eastern Caribbean Studies* (Special Issue on the CARIFORUM–EU Economic Partnership Agreement) 33 (2008): 70-104; for voices from the negotiators, see also Richard Bernal, 'CARIFORUM–EU Economic Partnership Agreement Negotiations: Why and How', *Journal of Eastern Caribbean Studies* 33:2 (2008):4; Owen Arthur, 'The Economic Partnership Agreement between the CARIFORUM and the European Union and the Building of a Post-Colonial Economy in the Caribbean', Journal of Eastern Caribbean Studies 33:2 (2008), 27.

Convention on the Protection and Promotion of the Diversity of Cultural Expressions

Article 14 – Cooperation for development

Parties shall endeavour to support cooperation for sustainable development and poverty reduction, especially in relation to the specific needs of developing countries, in order to foster the emergence of a dynamic cultural sector by, inter alia, the following means:

(a) the strengthening of the cultural industries in developing countries through:

(i) creating and strengthening cultural production and distribution capacities in developing countries;

(ii) facilitating wider access to the global market and international distribution networks for their cultural activities, goods and services;

(iii) enabling the emergence of viable local and regional markets;

(iv) adopting, where possible, appropriate measures in developed countries with a view to facilitating access to their territory for the cultural activities, goods and services of developing countries;

(v) providing support for creative work and facilitating the mobility, to the extent possible, of artists from the developing world;

(vi) encouraging appropriate collaboration between developed and developing countries in the areas, inter alia, of music and film;

(b) capacity-building through the exchange of information, experience and expertise, as well as the training of human resources in developing countries, in the public and private sector relating to, inter alia, strategic and management capacities, policy development and implementation, promotion and distribution of cultural expressions, small-, medium- and micro-enterprise development, the use of technology, and skills development and transfer;

(c) technology transfer through the introduction of appropriate incentive measures for the transfer of technology and know-how, especially in the areas of cultural industries and enterprises;

(d) financial support through:

(i) the establishment of an International Fund for Cultural Diversity as provided in Article 18;

(ii) the provision of official development assistance, as appropriate, including technical assistance, to stimulate and support creativity;

(iii) other forms of financial assistance such as low interest loans, grants and other funding mechanisms.

The questions addressed in this study are set against this backdrop. It seeks to evaluate whether the EPA, ten years into its implementation, has made a substantial and measurable impact on cultural trade relations between CARIFORUM States and the EU and whether governments, State and non-State agencies, industry bodies, individual firms and actors have responded to the opportunities created by the CARIFORUM-EU EPA for a more culturally diverse environment.

The study begins by outlining the EPA's key provisions in the field of culture. It then examines the institutional landscape and focuses in particular on measures taken by EPA Parties to implement its culture-related provisions. The overall performance of the EPA so far is evaluated with data, practices and other pieces of anecdotal evidence that may reveal the extent to which the EPA has had an impact on cultural activities and actors. It also identifies gaps or missed opportunities that can be addressed in future implementation strategies.

Policy recommendations conclude this study. This includes short- to long-term measures to support the implementation of the EPA in the future. They have been formulated to renew hope that trade commitments and cultural policies can be reconciled and can live up to the promises of the 2005 UNESCO Convention and the 2030 Agenda for Sustainable Development.

The CARIFORUM-EU EPA: Fostering preferential treatment in cultural trade and cooperation

1

Revisiting the relationship between trade and cultural cooperation, the CARIFORUM-EU EPA includes improved market access and preferential treatment for cultural services and cultural services providers through two innovative modalities (see Annexes):

- **improved market access for entertainment services provided by CARIFORUM States, as detailed in Title II "Investment, Trade in Services and E-commerce"**
- **a dedicated Protocol on Cultural Cooperation**

Granting market access for entertainment services

For the first time, the EU has committed to significantly opening its entertainment sector to services and service suppliers from CARIFORUM States. The entertainment sector is typically interpreted to include all entertainment services other than audiovisual - such as theatrical productions, musical groups, bands and orchestra entertainment services; services provided by authors, composers, sculptors, entertainers and other individual artists; circus, amusement park and similar attraction services, ballroom, discotheque and dance instruction services; and other entertainment services. The concessions in the entertainment sector vary depending on the 'mode of supply', which refers to methods of providing a service[12].

12. Different modes of supply for entertainment services are covered in the EPA: cross-border supply of services (mode 1), commercial presence (mode 3), and temporary presence of natural persons for business purposes (mode 4).

With regard to commercial presence (GATS mode 3, whereby a service is supplied through the establishment of the services provider in the country where the service is provided), 16 EU Member States, including all of the major traditional markets for Caribbean entertainers, such as the United Kingdom, France, Germany, Italy and Spain, have granted preferential access to investors or entertainment services companies from the Caribbean. Caribbean companies can also obtain work visas for their managers or key personnel to work for their operations in an EU Member State for a period of up to 3 years (Article 81 – Key personnel and graduate trainees).

For the first time, the EU has committed to significantly opening its entertainment sector to services and service suppliers from CARIFORUM States

The EPA also includes specific opportunities for Caribbean entertainers and other artists to travel to EU Member States in order to provide entertainment as Contractual Service Suppliers (CSS) (Article 83 – Contractual services suppliers and independent professionals). These are employees of a Caribbean company, which has no commercial presence or permanent office in the EU but has a contract to supply services to consumers in an EU Member State and which requires its employees to enter an EU country on a temporary basis to fulfil the contract. The scope is broad and Caribbean self-employed performing artists who create a company through which they provide their services, can be considered CSS and are thus covered by EU commitments. Twenty-seven EU Member States (all except Belgium) have granted such access for the entertainment sector, with some transition periods applied up to 2014.

Access granted to Caribbean entertainers, artists and other cultural practitioners may be subject to qualification requirements and to economic needs tests (ENTs). Despite these additional conditions, it should be underscored that there is a comprehensive opening of the EU entertainment services sector for the temporary entry of natural persons. It does not include quotas for EU Member States and is legally binding. Furthermore, this level of market access in the entertainment sector – a sector that is part of the cultural domain and typically a sensitive policy area – has never been granted by this many EU Member States.

The Protocol on Cultural Cooperation: Redesigning external trade practices

The market access granted by the EU for entertainment services is complemented with a new and innovative external trade practice instrument – the Protocol on Cultural Cooperation (PCC)[13]. With the PCC, the CARIFORUM-EU EPA has a particular significance as the very first international trade agreement that makes an explicit reference to the provisions of the 2005 Convention.

The PCC, which is annexed to the EPA but is neither binding nor subject to the general dispute resolution mechanisms, aims above all to improve "the conditions governing their exchanges of cultural activities, goods and services and redressing the structural imbalances and asymmetrical patterns which may exist in such exchanges"(article 1(2) PCC).

It provides for bilateral cooperation on all cultural fronts, such as publications, sites and historic monuments and performing arts, and specifically includes activities particularly relevant to the Caribbean, such as carnivals and costume design. The PCC also has dedicated provisions for the audiovisual sector.

In the latter context, the PCC breaks from EU tradition, whereby it keeps the audiovisual sector protected and leaves it out of trade agreements. It provides a solid basis for collaboration and grants access for Caribbean audiovisual content to the European market. In particular, audiovisual

13. For a detailed analysis of the PCC, see Xavier Troussard, Valérie Panis-Cendrowicz, Julien Guerrier, *The UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, Sabine von Schorlemer and Peter-Tobias Stoll (eds), Springer, 2012, 441-455.

A Protocol on Cultural Cooperation framed in the spirit of the 2005 Convention to improve conditions governing cultural exchanges and circulation of artists from the CARIFORUM region, covering:

- **Art. 2:** Cultural exchanges and dialogue
- **Art. 3:** Artists and other cultural professionals and practitioners
- **Art. 4:** Technical assistance
- **Art. 5:** Audiovisual, including cinematographic, cooperation
- **Art. 6:** Temporary importation of material and equipment for the purpose of shooting cinematographic films and television programmes
- **Art. 7:** Performing arts
- **Art. 8:** Publications
- **Art. 9:** Protection of sites and historic monuments

co-productions involving European and Caribbean creative teams can benefit, when the contribution of the CARIFORUM partner(s) is no less than 20% and no more than 80% of the total production cost. When the co-production satisfies this requirement, it qualifies as a 'European work' under EU media law. The EU Audiovisual Media Services Directive (AVMS) provides that all audiovisual media providers in the EU must show a majority (more than 50%) of European works. Therefore, by qualifying as 'European works', CARIFORUM co-productions receive privileged market access to the European audiovisual market. It also stipulates that when co-production agreements have been completed between individual EU Member States and Caribbean States, Caribbean audiovisual producers can access additional funding for creative projects.

The market access granted by the EU for entertainment services is complemented with a new and innovative external trade practice instrument – the Protocol on Cultural Cooperation

Beyond the media sector, the PCC allows artists and other cultural practitioners, who are not involved in commercial activities in the EU, to enter the EU in order to collaborate on projects, to receive training, and to engage in production and other activities. They can stay in any EU country for up to 90 days during a 12-month period.

Agreements, such as the Protocol on Cultural Cooperation attached to the Economic Partnership Agreement between the EU and CARIFORUM, have played an important role in driving the ratification process for the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. Today, the Convention counts 146 Parties, and is the only UNESCO Convention ratified by the EU.

Thanks to this process, key concepts like the protection of cultural diversity, the participation of civil society and the integration of culture into sustainable development have been brought to the fore: they are now widely shared and underpin international cooperation in cultural matters.

This process has also helped the EU clarify and defend culture's potential. Key EU documents such as the Joint Communication "Towards an EU strategy for international cultural relations" and the "New Consensus on development" are fully aligned with the Convention's provisions and put its "spirit" into practice with new approaches, based on the principles of partnership, ownership and co-creation.

Cultural cooperation must look further ahead: there remain challenges in the implementation of the Cultural Protocol, its new instruments and its ever-evolving circumstances. A more strategic approach is needed, where challenges meet opportunities, and identified needs meet available resources. However, cooperation under the principles we share remains the way forward.

Walter Zampieri
Head of Cultural Policy Unit, Directorate General for Education, Youth, Sport and Culture, European Commission

The PCC also provides for technical assistance through different measures, such as training, the exchange of information and expertise, counselling in the elaboration of policies and legislation as well as in the usage and transfer of technologies and know-how. Article 6 of the PCC seeks to further promote the EU and the CARIFORUM as locations for shooting films and television programmes, in particular by allowing temporary importation of technical material and equipment necessary for shooting from one Party's territory to another.

In this sense, the PCC provides opportunities for collaboration in the broader domain of culture, as well as for some specific opportunities for cultural workers and artists to enter the EU in order to learn, to network or to receive technical assistance. It also provides for the preferential treatment of

Caribbean audiovisual productions, which when compliant with the 'doable' 80/20 ratio, can enter the EU market on equal footing with other European works.

In terms of legal design, the PCC is innovative and has gained attention for its direct link to the 2005 Convention. As the very first PCC, it was also a sign of what to expect from the 2007 European Agenda for Culture and its external relations dimension. The rhetoric following the EPA's adoption underpinned these perceptions. The European Commission referred to the Protocol as a 'showcase of implementation' of the 2005 UNESCO Convention and stressed the wish to 'move early' in order to signal Europe's commitment to the Convention and reinforce its international standing. CARIFORUM stakeholders were even more enthusiastic and framed the PCC as an historic concession on the part of the EU that could create unprecedented opportunities for the Caribbean's cultural producers.

The PCC provides opportunities for collaboration in the broader domain of culture, as well as for some specific opportunities for cultural workers and artists to enter the EU in order to learn, to network or to receive technical assistance

It is tempting to be seduced by these words and to believe that the opportunities created through the EPA would simply materialize over time, including the opening of the entertainment services sector, the movement of natural persons and substantial preferential access for audiovisual co-productions. It is hopeful to think that actors on both sides of the agreement – governments, public institutions, non-governmental bodies, industry organizations and individuals – would become aware of the EPA and make use of it.

Yet, a decade after its adoption, the story is much more varied, complex and at times somewhat less positive in terms of actual market entry. This complexity is revealed by looking first at the relevant institutions for the implementation of the EPA and then at the actual steps – either in the form of adjusted policies, new financial instruments or the development of best practices – that contribute to its implementation on the ground.

CARIFORUM and EU Member States are endowed with rich cultural assets and have a mutual interest in strengthening their cultural cooperation at all levels. As Parties to the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, it was a natural progression when both sides agreed to the inclusion of a* Protocol on Cultural Cooperation (Protocol III) *in the CARIFORUM-EU EPA, which was signed in October 2008. Indeed, the inclusion of Protocol III in the EPA is quite significant, as it represents the first occasion that comprehensive provisions on culture, providing for the movement of cultural practitioners, were included in a trade agreement with the EU.*

The Protocol provides a framework for cooperation between CARIFORUM and the EU, including through the facilitation of cultural exchanges and training and the co-production of audiovisual works. The Protocol therefore provides significant scope for CARIFORUM's cultural practitioners to build their capacity in the field of culture and establish networks across the EU. These activities can lead to commercially viable arrangements under the Trade in Services pillar of the EPA. For Jamaica, the EPA, including the Protocol and the Trade in Services provisions, is seen as an important instrument aimed at using trade as an engine of economic growth and development. Services, including those provided by the Jamaican creative and cultural industries, continue to contribute in a tangible way to the country's GDP.

The implementation of the Protocol on Cultural Cooperation is critical to the development of the cultural sector in the region. We are therefore pleased that work is underway between CARIFORUM and the EU to operationalize the Protocol, including through the adoption of specific modalities. Jamaica will continue to play an important role in that process. The opportunities under the Protocol must be promoted by the Parties and seized by cultural practitioners on both sides. This will require greater stakeholder engagement in the process. Let us make it work.

Senator Hon. Kamina Johnson Smith
Minister of Foreign Affairs and Foreign Trade, Jamaica

Forging new institutional frameworks

2

Joint institutions under the EPA

The EPA foresees the timely establishment of implementation bodies (in articles 227–232). Five main institutions (see Table 1) have been established in this context: the Joint CARIFORUM-EU Council; the CARIFORUM-EU Trade and Development Committee; the Joint CARIFORUM-EU Parliamentary Committee, the Joint Consultative Committee and the Special Committee on Customs Cooperation and Trade Facilitation. The establishment of the Consultative Committee, in particular, recognizes the necessary involvement of non-governmental actors in the implementation of the EPA.

All five implementation bodies are now in place, have adopted rules of procedure and have met, although infrequently (the Trade and Development Committee has met most often - a total of 8 times, with the last meeting held in December 2018). Additional bodies have been created to address the Parties' specific needs and concerns, such as the Special Committee on Customs Cooperation and Trade Facilitation; the Technical Sub-Committee on Development Cooperation and the Special Committee on Agriculture and Fisheries, which was only formally established in late 2017.

The 2014 First Five-Year Review[14] concluded that the services provisions of the EPA have not yet yielded the anticipated benefits. As a result, both sides have agreed to work towards ensuring the full potential of the provisions and to explore measures that support capacity development for CARIFORUM services suppliers in gaining better access to the EU market, as well as in addressing challenges associated with the collection of services trade data (which has proven particularly difficult during the review process).

14. See *http://trade.ec.europa.eu/doclib/docs/2014/october/tradoc_152825.pdf*

Table 1 • The five joint CARIFORUM-EU implementation bodies

	Joint bodies	Role	Composition	EU bodies involved	Frequency of meetings
1	**Joint Council**	Gives political direction, reviews main issues in EPA implementation	Caribbean Ministers; EU Trade Commissioner and High Representative	European Commission; EU Council of Ministers; EU Member States' representatives	Every two years at least
2	**Trade and Development Committee (T&DC)**	Reviews EPA implementation in detail	Senior officials	European Commission; EU Member States	Every year
3	**Parliamentary Committee**	Reviews EPA implementation, advises T&DC and Joint Council	Caribbean MPs, Members of the European Parliament (MEPs)	European Parliament (EP)	Committee to decide
4	**Consultative Committee**	Reviews EPA implementation, advises T&DC and Joint Council on aspects of social, economic environmental issues	Business and civil society representatives	European Economic and Social Committee (EESC), as secretariat	Committee to decide
5	**Special Committee on Customs Cooperation and Trade Facilitation**	Reviews technical issues concerning customs and trade facilitation	Customs and trade officials	European Commission; EU Member States	Committee to decide

Source: European Commission, How the EU Is Putting the CARIFORUM-EU EPA into Practice (Brussels, 2018)

For this purpose, the creation of a new Special Committee for Trade in Services was recommended in 2017, as a dedicated forum to help navigate the complex nature of the regulatory environment in the EU at the community, national and regional levels and to address issues such as the impact of visas, nationality and residency requirements on CARIFORUM suppliers, as they frequently impede the market access afforded under the EPA and restrict the ability to maintain a presence in the same market.

Interestingly, the importance of implementing a specific joint mechanism for EPA monitoring, to inform the EPA's Second Five-Year Review, scheduled for 2020, is now foreseen, thus confirming the political commitment of both parties to ensuring that the objectives of the Agreement are realized. It is also worth mentioning that at the outset of the implementation period, the Directorate General for Education, Youth, Sport and Culture for the European Commission indicated that it is contemplating the possibility of setting up an implementing body for the cultural provisions of the EPA, in particular for the purposes of the PCC. It was suggested that such a body, in the form of a task force or an implementing committee, could be composed of representatives from the CARICOM Secretariat, the European Commission's Directorate Generals for Trade, Communications Networks, Content and Technology (DG Connect) and Education, Youth, Sport and Culture (DG EAC)[15]. As yet, such a body has not been established.

15. *Implementing cultural provisions of CARIFORUM-EU EPA: How do they benefit the Caribbean cultural sector?*, European Centre for Development Policy Management, Discussion Paper No. 118, June 2011.

Building on the European Union's institutional landscape

The EU institution primarily responsible for the implementation of any trade agreement is the European Commission, which is the executive branch of the European Union and seeks to promote the EU's general interest through activities in all areas of social life. Trade is an important part of this and as of the 2009 Treaty of Lisbon, the EU has comprehensive competence in EU external trade relations. The European Commission's Directorate-General (DG) Trade, which is the EU's "trade department", is actively involved in negotiating new agreements of different nature (from customs unions to far-reaching partnership treaties, such as the EPA), and in monitoring their implementation, including all commitments under the agreements. DG Trade is not, however, the only one involved. DG Trade works with others, such as DG DEVCO (Directorate General for International Cooperation and Development), DG Connect and DG EAC on broader trade-related issues covered by the EPA. The latter is particularly important, as it oversees all cultural matters; the role of DG DEVCO is also key as it manages the European Development Fund (EDF) and finances the ACP Cultures + programme, which provides grants to the 79 ACP countries for the production of diverse cultural works and their distribution in local and international markets. From 2012 to 2017, 61% of the Programme budget subsidized the film and broadcasting sectors and 39% went to other sectors, such as theatre, music, dance, literature, design, fashion, crafts and cultural tourism[16].

Many of the difficulties in making good use of the existing EPA cultural provisions relate to either visa or co-production funding issues, which fall under the authority of the EU Member States

16. See European Union quadrennial periodic report on the implementation of the 2005 Convention at *https://en.unesco.org/creativity/governance/periodic-reports/2017/eu.*

The CARIFORUM-EU EPA is a partnership for sustainable development, regional integration and the creation of new commercial opportunities between CARIFORUM and the EU. Its Protocol on Cultural Cooperation was unique to trade agreements when it was adopted. As Parliamentarians, we have several times stressed the importance of the cultural industries, including education, sport, national heritage activities, training and exchanges, which are an asset to the CARIFORUM region and to the EU. This is one of the single largest growth areas with respect to export earnings, especially at a time when there has been significant reduction in traditional revenue streams. We have seen the EPA as being of critical importance to the CARIFORUM region's strategy of further promoting and commercialising the creative and sports sectors, and have stressed the importance of implementing the Protocol on Cultural Cooperation, as a way of bringing the two regions closer to each other.

In our recommendations from the Second Joint Parliamentary Committee Meeting, we suggested that different actions and measures be considered to further the implementation of the Protocol, such as twinning projects between creative cities in both regions and the establishment of a CARIFORUM-EU Platform for the Culture and Creative Industries.

Further action on these and other aspects is still needed for the Protocol to reach its full potential. We therefore look forward to increased cooperation and more action in the coming years, and urge all parties to the agreement to increase their efforts in this regard.

Bolesław Piecha
Member of Parliament, Chair of the European Parliament's Delegation to the Joint CARIFORUM EU Parliamentary Committee

While the EU has a sophisticated institutional network, its competences are not exclusive in all areas and many issues, in particular in the field of culture and national security, are still within the competence of the individual EU Member States. This naturally complicates EPA implementation processes, where coordination between the different EU Member States is needed; it may also lead to (sometimes substantial) differences between EU Member States and thus make it difficult for CARIFORUM partners, often struggling with capacity constraints, to understand this complex regulatory environment and to navigate it properly for their own benefit. As will be discussed, this matter is by no means trivial and many of the difficulties in making good use of the existing EPA cultural provisions relate to either visa or co-production funding issues, which fall under the authority of the EU Member States.

Increasing institutional support in the Caribbean

The Caribbean's institutional landscape of relevance to the EPA's implementation involves a greater number of countries and profoundly different regulatory capacities. This study cannot provide an exhaustive picture of all the institutions involved but merely sketches some trends in institutional development. Next to the joint CARIFORUM-EU institutions that were established, the CARIFORUM and the CARICOM Secretariats have played an important role, in particular by raising awareness of EPA opportunities and by coordinating its implementation in the cultural sector. One example is the Regional Strategic Plan for Services, for eight priority services sectors, which includes cultural and entertainment services that has been mandated by CARIFORUM Ministers. While national consultations with stakeholders on this Regional Strategic Plan have already been completed in some countries such as Trinidad and Tobago, CARICOM is still engaging other Member States to gather their respective inputs. The final Plan is due for mid-2019[17].

It is also noteworthy that Caribbean governments and other key domestic stakeholders have begun increasing institutional support to the creative sector and are implementing new organizational frameworks.

At the national level, several governments have articulated cultural policies, created creative trade agencies and established artists' registries. For instance, the Barbados government published a Cultural Industries Bill in 2013 that offers a range of tax and fiscal incentives to facilitate growth in the sector.

17. See Feature address by Senator Hon. Ms Payla Goppee-Scoon, Minister of Trade and Industry of Trinidad and Tobago, Creative and Cultural Industries Workshop, 27 March 2019, Port of Spain, at *https://tradeind.gov.tt/ttcsi-workshop-speech/*.

This was followed, in 2015, by the creation of a Cultural Industry Development Authority[18]. In 2018, after national elections, the Ministry of Culture was rebranded as the Ministry of Creative Economy, Culture and Sport. This exemplifies the shift towards a more entrepreneurial and trade-oriented approach to cultural industries development.

Another example of institutional innovation in the cultural industries is the case of Trinidad and Tobago. The Trinidad and Tobago government founded the Creative Industries Company (CreativeTT)[19], a state-owned enterprise that operates under the Ministry of Trade and Industry and focuses on three sectors: music (MusicTT), film (FilmTT) and fashion (FashionTT). CreativeTT aims to foster investment, enterprise development and export activities. In Jamaica, the creative sector has been supported by the Jamaica Promotions Corporation (JAMPRO) for several years now and exemplifies the role of state-owned enterprises in the creative sector with a focus on film, online content, animation and fashion[20]. JAMPRO's efforts have been further bolstered by the Ministry of Foreign Affairs in the area of trade negotiations and trade policy and the Ministry of Culture in the area of culture and arts development.

Regional organizations have also begun responding to these concerns. In 2015, CARICOM called for the establishment of a regional body to promote interest in the creative sector at the 26th intersessional meeting of the Heads of Government. A recommendation was made for the Caribbean Export Development Agency to establish the Caribbean Creative Industries Management Unit (CCIMU). While addressing the needs of the regional creative and cultural industries, the Unit proposed to foster creativity, support the development of businesses and create opportunities, including in promoting trade. Central to the success of the unit will be the legal framework, ensuring the rights and obligations of stakeholders are respected and legally protected.

Finally, and with a look toward the future, the CARIFORUM Directorate's Consultation on Market Access Opportunities and Challenges conducted in March 2018 should be mentioned.

18. *http://www.cidabarbados.org*

19. *http://www.creativett.co.tt*

20. *http://www.jamaicatradeandinvest.org/trade/buyers/source-authentic-jamaican/creative-industries*

The EPA provides an important opportunity for both geographic blocs to establish a trading environment. Significantly, for the Caribbean, this means a much bigger market space in which to do business, particularly in the cultural sector. For the Caribbean, the EPA also represents a chance to have an even greater presence in the international community, and critically, to strengthen the ongoing process of regional integration.

The value of the partnership has yet to be maximised, due to an implementation deficit. Chief among the reasons is the 2008 global financial and economic crisis which dried the ink during the signing process, while simultaneously blowing away the fledgling possibilities the Caribbean had up to then developed to make its presence felt in the European region. That economic crisis also further imbalanced the capacity of Caribbean States, resulting in the absence of already scarce resources to support implementation. This is particularly the case for the specially crafted Protocol on Cultural Cooperation, which provides for bilateral cooperation in a variety of cultural activities, as well as a framework for the temporary movement and training of cultural practitioners. In preparation for this, Barbados became a policy leader in developing the cultural industries through specific legislation and the creation of a directory of artists and cultural workers. Over the last ten years there has been some movement towards positioning the creative sector as a lead economic driver to maximise the EPA, however there still remains a lot of work to do.

Andrea King
Director of Cultural Industry Development Authority, Barbados

During the consultation, CARIFORUM States insisted that the CARIFORUM Directorate should conduct further work on identifying areas of concern for trade in services between CARIFORUM and the EU and encouraged the CARIFORUM Directorate to propose solutions to guide individual States on their policy positions for the upcoming Second Five-Year Review. The consultation reviewed challenges faced by service providers, particularly cultural service providers, in obtaining temporary entry due to a lack of certified cultural providers in the region. CARIFORUM States reaffirmed their commitment to finalizing the mutual recognition of services between CARIFORUM and the EU and to identifying solutions to the challenges posed in relation to market access restrictions within the EU.

Mind the gap? New steps towards implementing the CARIFORUM-EU EPA

3

General overview

The overall implementation of the CARIFORUM-EU EPA shows mixed results, at best. The 2014 First Five-Year Review of EPA implementation observed a reduction in some tariffs and the establishment of institutions tasked with guiding the implementation at national and regional levels. The study found few discernible aggregate EPA impacts: for example, the expansion of agricultural exports and some free-zone manufacturers from the Dominican Republic, as well as a resurgent regional rum industry supported by an innovative EU-backed programme.

However, and despite other exceptions, Caribbean exports to the EU have trended downwards since 2013. While the value of goods exported from the CARIFORUM region to the EU increased from US$3.6 billion in 2005 to US$4.5 billion in 2013, there was a 23% drop in 2016, linked to falling commodity prices that hit Trinidad and Tobago's hydrocarbon exports; there has however been a slight upward trend in the last two years[21]. Overall, no clear connection could be observed between the market opening and the development of trade flows since 2008. It can be argued that economic and export structures in the Caribbean have remained largely unchanged post-EPA.

The 2014 report was cautious in drawing conclusions on the overall economic impact of the EPA, since ratification has been slow. This situation has now improved with almost all tariff reductions fulfilled. In terms of institutional development under the EPA, as discussed earlier, the national and regional implementation agencies have generally covered the key priority areas envisioned by the EPA. Yet, the coverage has not been comprehensive, and culture has clearly not been part of these efforts. This has been partially attributed to delayed funding, as in some instances the EU programming process had been slow in delivering assistance on EPA implementation and bilateral donors, such as the United Kingdom and Germany, had to step in to fill the gap. The ratification process has also been protracted and there are still countries on both sides of

21. European Commission: *https://webgate.ec.europa.eu/isdb_results/factsheets/region/details_acp-caribbean-countries_en.pdf*

the EPA, where ratification is pending (Hungary, Luxembourg, Poland and Slovenia on the EU side; and the Bahamas, Jamaica, Suriname, Trinidad and Tobago and Haiti on the CARIFORUM side)[22]; and some key players, such as Germany, only ratified the EPA in 2017. The EU is now eager to change this dynamic and turn to more decisive measures and financing mechanisms that will bolster the EPA's implementation[23].

Bilateral talks have taken place on some issues, such as mutual recognition (i.e. the recognition of certifications, qualifications or assessments from one country in the other without additional procedures), which is important to CARIFORUM States and partner agencies who have used EU funds to help CARIFORUM companies enter and compete in the EU market.

It can be argued that economic and export structures in the Caribbean have remained largely unchanged post-EPA

Arguably, the EPA's implementation process started in a highly unfavourable economic context - at the brink of the financial crisis and global economic recession – the negative effects of which are still being felt in many CARIFORUM States with declines in export earnings, balance of payments issues and increased debts. To address these challenges, economic diversification and new exports are required. In this context, the creative sector is being identified as a key area of potential growth. Almost every government in the CARIFORUM region has deepened its institutional focus on the creative sector with the aim of boosting exports and generating new sources of employment, particularly targeted at youth.

It can be argued that political enthusiasm for industrial upgrading has been strengthened and that there has been increased, albeit limited, resource allocations for economic diversification, which have not easily translated into expanded market entry or proactive EPA implementation. In many respects, the challenges relate to operational and capacity constraints within the private sector and in public sector institutions. Most firms outside of the traditional commodity (e.g. bananas, sugar, and rice) and services (e.g. tourism, telecoms, financial) export sectors are micro and small enterprises, which generally face greater difficulty exporting.

22. For the state of ratification, see the European Council database: *https://www.consilium.europa.eu/en/documents-publications/treaties-agreements/agreement/?id=2008034&DocLanguage=en*

23. European Commission, How the EU Is Putting the CARIFORUM-EU EPA into Practice (Brussels, 2018).

The CARIFORUM-EU Economic Partnership Agreement, signed in 2008, covers trade between CARIFORUM States and the EU and its Member States, and is expected to open markets in the creative and entertainment industries beyond WTO commitments. In addition to market access opportunities, the EPA, through the implementation of Protocol III on Cultural Cooperation, is recognized by CARIFORUM and the EU, as being critical to the development of the cultural sector in CARIFORUM. The Protocol covers a wide range of cultural activities in which the CARIFORUM region has distinguished itself (such as literary arts, theatre and film), thereby giving credence to the extensive opportunities available to CARIFORUM cultural practitioners.

Notwithstanding, there are a number of challenges which inhibit regional cultural practitioners from taking advantage of the opportunities contemplated by the parties to the Agreement. These challenges include:

- *the EU's visa requirements, the numerous economic needs tests (ENTs) and the EU's cumbersome domestic regulations, which deter some CARIFORUM cultural practitioners from participating in cultural activities in the EU;*
- *the absence of commitments by the EU in entertainment services under the independent professional rubric of the temporary entry regime, as CARIFORUM entertainers are primarily self-employed and may not be able to meet the qualification requirements to supply the service as independent professionals under the terms of the Agreement; and*
- *the inability to access much-needed technical assistance and financing to advance the development of the sector.*

There is therefore recognition on both sides that the Protocol on Cultural Cooperation has not yielded the anticipated benefits despite initiatives geared towards strengthening the sector. However CARIFORUM and the EU remain committed to continuing their respective efforts to facilitate the Protocol's tangible benefits.

Percival Marie
Director-General of Caribbean Community (CARICOM)

The public sector institutions have limited experience in facilitating trade among such firms and the non-traditional sectors, like the creative industries, are relatively new areas of engagement for which most trade and investment agencies are largely ill-equipped to facilitate. As such, from the supply-side, it can be posited that structural impediments have thwarted the region's efforts to take full advantage of the EPA benefits in the trade of both goods and services. This set of challenges is compounded by demand-side issues, such as weak market relationships with potential importers, consumers and audiences; low market presence in strategic marketplaces (e.g. trade fairs and expositions), and limited visibility in the digital arena.

The picture is similar in the creative sector, as we examine the concrete steps taken towards full implementation of the CARIFORUM-EU EPA, by the EU, the EU Member States and CARIFORUM States.

Almost every government in the CARIFORUM region has deepened its institutional focus on the creative sector with the aim of boosting exports and generating new sources of employment, particularly targeted at youth

Cultural provisions in the CARIFORUM-EU EPA: How binding are the rules?

The EPA is binding for the EU and its Member States, who are obliged to comply with its provisions. However, this must be qualified and a difference must be made between the two categories of cultural provisions in the EPA. The market access provisions for entertainment services as part of EPA's Title II 'Investment, Trade in Services and E-commerce' are binding and the commitments made by the EU Member States are directly applicable. The provisions in the PCC, which is annexed to the EPA, are not legally binding. They represent a set of best practices that the EU and the EU Member States should pursue.

The provisions in the PCC, which is annexed to the EPA, are not legally binding. They represent a set of best practices that the EU and the EU Member States should pursue.

The most important provisions in the PCC with regard to the preferential treatment granted to audiovisual co-production appear to be automatically applicable. While there is no obligation for Member States to undertake a specific action, it is clear that when the CARIFORUM-EU co-productions satisfy the terms of the PCC, they will qualify as 'European works' under EU media law and benefit from privileged market access.

With regard to the entertainment services market access commitments, one needs to carefully examine the commitments of each individual EU Member State that may apply and implementation on the ground as will be seen later in the study.

The EPA and Cultural Protocol could become important drivers of economic development for the Caribbean's cultural industries. Thanks to its provisions, multiple initiatives focused on training and trade missions have taken place, resulting in: technical training for cultural creators; direct contact with international buyers of cultural goods and services; and exposure to the expectations of global consumers of culture.

The Caribbean is, and can remain, an attractive market for local creators. At the same time, success in global markets will generate exponential results in financial and social areas for many stakeholders. Success in a globalized economy is not a zero-sum game. As trade barriers decrease, opportunities multiply for stakeholders with creative and technical capacities.

From its inception, the EPA has recognized that the creative capacity of the Caribbean has always been a reality. However, many of its provisions, including EPA provisions on services export, such as concessions for independent professionals and artists, are pending. Without a doubt, current and potential EPA Cultural Protocol beneficiaries are encouraging further negotiations (e.g. co-production agreements) and administrative measures (e.g. visa facilities for promotional purposes or facilities for contractual services).

We welcome the Joint Special Committee on services within the EPA and eagerly look for further progress. This will inevitably lead to more benefits and more opportunities for the Caribbean.

Carlos Delgado-Imbert
Cultural Industries Consultant, NEX Consulting, Dominican Republic

Putting funding structures in place

Because the EPA provides multiple market access opportunities for CARIFORUM States, the general sentiment at the EU level is that it is up to CARIFORUM partners to make use of them. At the same time, since the EPA was signed in 2008, the EU has worked to put the agreement into practice by funding different EPA implementation structures throughout the Caribbean – be it through national trade ministries, the CARIFORUM Directorate at the Caribbean Community (CARICOM) Secretariat or through initiatives at the industry level, by helping businesses meet EU environmental or health standards.

While these initiatives are positive and have successfully assisted CARIFORUM States in meeting their tariff reduction obligations, culture has not been specifically targeted. It is also critical to note that the PCC does not contain any provisions ensuring financial support for its implementation and the European Commission has not made any funds available for the specific purpose of promoting cooperation between the EU and CARIFORUM cultural sectors.

This said, the European Commission has several funding programmes that can be used to put some of the EPA's cultural provisions into practice, despite not having been specifically designed for this purpose.

Critical among these is the European Development Fund (EDF). The EDF was launched in 1959 and is the main EU instrument for providing development aid to ACP countries and overseas countries and territories (OCTs). It is now in its 11th edition, spanning from 2014 to 2020[24] and as mentioned above, includes funds earmarked for the creative sector to support cultural industries and to improve access to European markets for ACP cultural goods and services.

24. 160 million EUR were available for 10th EDF, 346 million EUR for the 11th EDF.

The Economic Partnership Agreement between the EU and CARIFORUM has granted tariff-free and quota-free access for CARIFORUM's goods to the EU market and has liberalized several services sectors, including cultural and entertainment services. Contractual service providers and independent professionals can access the EU market for up to 12 months. This important step facilitates the entry of artists and entertainment practitioners from the Caribbean region. For example, there are several reggae festivals taking place every year in Europe, with many artists from the region. This agreement also creates an optimal framework to develop and explore other creative sectors from the CARIFORUM region via technical assistance or available cooperation funds. For example, the EU is currently providing training in Intellectual Property Rights. With EU support, some cultural entrepreneurs have also been participating in the Road Show organized every year since 2015 by the European Chamber of Commerce of the Dominican Republic in Europe, which resulted in networking and business opportunities. The 4th CARIFORUM-EU Business Forum, to take place in Frankfurt (Germany) on 26-28 September 2019, will also be an opportunity to develop and build international partnerships. The new EU-ACP cultural programme 2019-2024 should open new cultural exchanges and economic opportunities for sectors defined by CARIFORUM as key priorities and a potential driver of economic development. DG TRADE recognises the importance of creative industries and services in CARIFORUM-EU trade relations and the economic potential it has for the region.

Cécile Billaux
Head of Unit, Trade Relations with Africa, Caribbean and Pacific DG Trade, European Union

The ACP Cultures+ programme is intended to contribute to fighting poverty by consolidating resilient cultural industries in ACP countries, enhancing their contribution to social and economic development and preserving cultural diversity.

From an available budget of 30 million EUR for the 2012-2017 period, 22.27 million EUR were used to finance 55 projects. Thirty-three projects relate to the film and audiovisual sectors and 22 to other cultural industries. These projects were implemented by more than 200 cultural operators working in partnerships. Eighteen projects were related to the distribution, circulation and promotion of cultural goods and services, in particular through festivals and online digital platforms; 18 were within the training sector; 18 dealt with the production of cinematographic and audiovisual works and one project aimed to strengthen regulations in the cultural sector[25].

25. ACP Secretariat (2015), Presentation of projects supported by the ACP Cultures+ Programme. *http://acpculturesplus.eu/sites/default/files/catalogue_fiches_uk_lr.pdf*

During this period, CARIFORUM States were able to access funding for six projects, half of which can be defined as Caribbean-themed projects that were executed by European partners working in partnership with Caribbean stakeholders (see Table 2). The latter projects involved film production and training in the audiovisual sector and accounted for 55% of the funds dedicated to the Caribbean. The other projects were coordinated by Caribbean-based firms and involved film production and distribution. The total funds for Caribbean-coordinated and themed projects amounted to 1,774,031 EUR or approximately 8% of the total funds allocated (22,270,000 EUR). The funding allocated represented a share of the total budget ranging from a low of 23% to a high of 80%. Awardees were required to access funding from strategic partners.

In February 2019, the Assistant-Secretary-General of the ACP Group, Léonard-Emile Ognimba, together with the Director General for Development and International Cooperation of the European Commission (DEVCO), Stefano Manservisi, launched the new ACP-EU Culture Programme on the occasion of the 26th edition of the Ouagadougou Pan-African Film and Television Festival (FESPACO). The general objective of the ACP-EU Programme "Towards a viable cultural industry" is to support the contribution of the cultural and creative sectors to the socio-economic development of ACP countries through: (a) the creation/production of quality goods and services at a competitive cost and in increased quantity through digital technology; (b) access to national, regional and international markets, the circulation/diffusion/promotion of ACP goods and services and image education; (c) improved access to financing through innovative mechanisms, that allow co-financing and are aimed at reducing the dependence of ACP cultural operators on international funding. A dedicated call of support for ACP audiovisual co-production with a budget of 6 million EUR has already been launched[26].

The Caribbean Regional Indicative Programme, which sets the main priorities for cooperation between both regions in the framework of the EDF, and with a budget of 346 million EUR (2014-2020), does not mention culture as an area of focus for EU support.

26. ACP-EU programme: "Towards a viable cultural industry", "Support for ACP audiovisual co-production", Reference: EuropeAid/164206/IH/ACT/Multi, Deadline for submission of full application: 3 June 2019.

Table 2 • Caribbean projects under the ACP Cultures+ Funding Programme[27]

Recipients	Project Objectives	EU Funding (share of total budget)
Trinidad and Tobago Film Festival Company Ltd, Trinidad and Tobago	Audiovisual distribution	339,301.14 (76.92%)
Cristo Rey, Les films de L'astre, France	Film production	285,633.61 (40%)
Meurtre à Pacot, Velvet Film, France	Film production	300,000.00 (35.74%)
Re-percussions - Pan! L'Odyssée Africaine- Maturity Music Limited, Trinidad and Tobago	Film production	75,000.00 (23.17%)
Sparring Partners: supporting young video artists by development of opportunities and network - GVC Onlus (Gruppo di Volontariato Civile), Italy	Training on audiovisual	500,000.00 (80%)
The "3D" Distribution Project: Digital, Domestic and Diaspora Distribution of Caribbean-themed audio-visual content - Caribbean Tales Worldwide Distribution Inc. CTWD, Barbados	Film distribution	274,096.40 (61.52%)
Total Funding (2012–2017)		**1,774,031.15**

The EU's major cultural programme, now called *Creative Europe* (previously *Culture*), is mainly geared towards EU countries and does not expressly support cultural cooperation with CARIFORUM States, despite the fact that non-European countries such as Brazil, China and Mexico, have benefitted from the programme.

One smaller-scale initiative that has focused on the creative sector is the Regional Task Force on Cultural Industries (RTFCI), established in 2008 and financed by the European Union, through the Hub and Spokes Trade Project, which is administered by the Commonwealth Secretariat in collaboration with the CARICOM Secretariat. The RTFCI gave 20 individuals from across the region (Ministers of Culture, Trade and Finance, representatives from regional organizations, such as the CARICOM Office of Trade Negotiations and Caribbean Export, and representatives from the audiovisual, music and festival industries) the mandate of mobilizing responses to the EPA's cultural provisions and of ensuring a coherent policy across the Caribbean community.

27. ACP Secretariat (2018) *How the ACP Cultures+ Programme contributed to the structuring of cultural industries in ACP countries: 5 Years Results Impact Data*. ACP Secretariat, Brussels.

The RTFCI presented its draft Action Plan to the CARICOM's Council for Human and Social Development in 2012, although take-up of its recommendations has been very slow across the region. The CARICOM Heads of Government have not implemented legislative, policy and institutional responses and the prioritization of cultural policies on the ground across all CARIFORUM States is not a given.

Facilitating market access for entertainment services

As noted earlier, the market access commitments for entertainment services differ from one EU Member State to the other. For example, from the list of entertainment services covered, Austria has limited its commitments to authors and dance instructor services and Belgium has made no commitments at all for contractual service providers. Divergences among EU Member States are possible also with regard to the limitations of market access commitments for entertainment services – in particular the Economic Needs Test (ENT) and the specific qualifications required for contractual services suppliers from CARIFORUM States wishing to provide entertainment services in EU Member States. ENTs are required in all EU countries, with the exception of Slovenia; similarly, qualifications may be required in all Member States except Slovenia; in the case of Austria, advanced qualifications are required.

The ENT is a well-known measure that functions as a safeguard for domestic markets and may be used by regulatory authorities to limit the entry of service suppliers into a market by taking existing local capacity into account first. Due to the lack of clear criteria, the ENTs make it difficult for CARIFORUM service suppliers to comply. As each Member State may use its own definitions, it may also be hard to navigate the EU regulatory environment. It must be stressed however that the ENTs were not implemented specifically by the EPA. Indeed, ENTs tend to be generically formulated in that they apply not only to entertainment services or to CARIFORUM States and that they have been generally applied without discrimination. Practice so far shows that the application of ENTs for entertainment services has not been overly stringent.

Qualifications may also be required for entry in the EU market. These include diplomas, certificates and other evidence of formal qualifications issued by a designated authority and certifying successful completion of a professional training (for instance to qualify as a member of a musical orchestra). If the qualifications have not been obtained in an EU Member State, the country concerned may evaluate if they are equivalent to its qualifications. Again, and similarly to the ENTs, this is a burden but not an unsurmountable one. The lack of harmonization across EU Member States and the associated lack of awareness of CARIFORUM services suppliers, especially those from the less structured and smaller-scale entertainment sectors, present a hurdle.

It is also important to stress that the EPA itself did not trigger any changes at the EU Member State level. First, although the EPA has been provisionally applied since 2008, actual domestic ratification has taken much longer; in some cases, like Germany, Croatia and Romania, it was only completed in recent years. It also appears that EU Member States have not yet adopted or dedicated additional measures to implement market access provisions for the entertainment sector, as their legislation was already in line with EPA requirements. Indeed, in most situations, the commitments made under the EPA simply reflect the status quo - also with regard to ENTs and professional qualifications. Through the EPA, these conditions are now more transparent and legally binding, thus providing a level of legal certainty for CARIFORUM service suppliers. The question of facilitating market access and increasing market presence in services has often been discussed by the various joint institutions, especially after the sobering results of the First Five-Year Review.

One initiative that has followed up is in the area of mutual recognition of certain professional services, which will render qualification requirements obsolete and allow for swifter market entry. CARIFORUM and EU professional associations have discussed the development of mutual recognition agreements for architecture and engineering services; however, entertainment services have not been included in these discussions. Arguably, such mutual recognition may be even easier in the entertainment sector, as qualification requirements and conformity assessments may be easier to satisfy.

A far more serious obstacle than ENTs and qualification requirements is the issue of EU visas and requirements for artists and cultural professionals. Entering the EU on transparent and facilitated conditions is critical, as the principal mode of delivery of cultural services by CARIFORUM States is the movement of natural persons, such as for live performances and other events. It is also in this regard that the EPA has been deemed to be truly progressive in terms of market access and in the implementation of the 2005 Convention's Article 16. Short-stay visas are not only relevant for entertainment services providers, but apply to CARIFORUM cultural practitioners that request entry to the EU for non-commercial purposes, as stipulated under the PCC.

Short-stay visas, also called 'Schengen visas', because they have been regulated under the Schengen Agreement, cover 22 EU Member States (notably without Ireland and the United Kingdom[28], Bulgaria, Croatia, Cyprus, and Romania) and 4 non-EU States (Iceland, Liechtenstein, Norway and Switzerland).

The Schengen visa allows its holder to enter the Schengen territory for a maximum stay of 90 days within a six-month period for tourism or business purposes; the visa may be issued for one or more entries and for travel around the Schengen area. Despite the fact that the Schengen regime is harmonized at the EU level and although the EU has taken note of the request made by a number of Caribbean countries to waive the EU visa requirements altogether, not all Caribbean countries can benefit from the regime. Antigua and Barbuda, the Bahamas, Barbados, Dominica, Grenada, Saint Kitts and Nevis, Trinidad and Tobago, Saint Vincent and the Grenadines and Saint Lucia have a short-stay visa waiver agreement with all EU Member States, except the United Kingdom and Ireland. For stays longer than three months and/or stays to take up gainful employment, national visas must be issued. For the rest of the CARIFORUM States, one must apply for a short-stay visa at the consulate of the EU Member State.

28. In the UK, artists from some CARIFORUM States do not require a visa if they are coming to the UK as work permit holders for 6 months or less, or as Temporary Workers in the Creative and Sporting Category Tier 5 for less than 3 months. This is the case for the following CARIFORUM States: Antigua & Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines and Trinidad and Tobago. But even this regime can be fairly complicated and requires a UK firm as a sponsor. See *The Music Sector and CARIFORUM-EU Trade Relations*, Background Brief for the 3rd CARIFORUM-European Union Business Forum, April 15-16, 2015.

This entry barrier has not gone unnoticed and the CARIFORUM States have stressed that nationality and residency requirements under the EU's professional services commitments (including entertainment services) discriminate against CARIFORUM services suppliers and may nullify the access provided by the temporary entry provisions, and by extension market presence.

A far more serious obstacle than ENTs and qualification requirements is the issue of EU visas and requirements for artists and cultural professionals

The First Five-Year Review revealed that very often publicly available information on official websites refer to 'migration', 'employment' or 'migrants' and 'workers' without reference to the short-term movement of service suppliers as envisaged in the EPA. The immigration and labour regulations in EU Member States focus on natural persons from other EU Member States or other countries without providing any specific privileges to CARIFORUM States as a result of the trade-related obligations under the EPA. The administration of visas and all migration-related questions are within the competence of each EU Member State and there are substantial divergences between them and a severe lack of transparency. This has been exacerbated by late ratification procedures which prevented immigration authorities from provisionally applying any immigration-related elements, as was the case of Germany which only ratified in 2017.[29]

For entertainers, the difficulties encountered could be remedied, should the 2014 European Commission proposal for a special 'touring visa', which permits longer stays and circulation in the Schengen area, be adopted[30]. This is particularly relevant to the music industry where there are large numbers of artists and performers that travel for tours and concerts. This measure, however, is becoming increasingly unlikely in the current global security climate.

29. See Joint Statement from the Fourth Meeting of the CARIFORUM-EU EPA Consultative Committee (CC), 3-4 December 2018, Castries, Saint Lucia; also *The Music Sector and CARIFORUM-EU Trade Relations*, Background Brief for the 3rd CARIFORUM-European Union Business Forum, April 15-16, 2015.

30. This new type of visa will allow legitimate non-EU nationals entering the Schengen area to circulate for up to 1 year in this zone (without staying in one Member State for more than 90 days in any 180-day period), with the possibility of an extension for up to two years (provided that the applicant does not stay for more than 90 days in any 180-day period in the same Member State). This would for instance, apply to live-performing artists who tour the Schengen area for a prolonged period, but also to individual travellers, such as tourists, researchers and students who wish to spend more time in Europe. For further details see: *http://europa.eu/rapid/press-release_IP-14-347_en.htm*

The Protocol on Cultural Cooperation (PCC) and audiovisual co-productions: An unexplored opportunity

No EU Member State has designed specific cultural cooperation programmes to implement the PCC provisions. This is the case for both their cultural policy programmes and their development cooperation programmes. That said, the situation is again much more complex and nuanced on the ground.

No EU Member State has designed specific cultural cooperation programmes to implement the PCC provisions

First, because of the question of competence and coordination between the EU, the national and regional levels. In Germany, for instance, the competence for culture, audiovisual affairs and education lies primarily with the Länder, the federal regions, while at the same time development cooperation is a federal competence; the conclusion of film co-production agreements has shifted from the regional to the federal level.

With regard to the most important PCC provision – that of preferential access to the EU market for CARIFORUM-EU co-productions – it should be stated that this provision has not been made operational. Since the EPA has entered into force, there have been no initiatives by EU Member States to start negotiations for bilateral co-production agreements for audiovisual works between individual EU Member States and individual CARIFORUM States. This relates to budget cuts and to the fact that Member States had been careful in signing new co-production agreements, as they were aware that they would also have to make funds available to implement these agreements. It should also be noted that for the Caribbean, capacities in audiovisual production generally remain rather low and concentrated among a handful of CARICOM countries. This is likely to be important when it comes to seeking forms of international co-productions and assistance, which tend to favour more established operations.

In the audiovisual sector, only the United Kingdom has signed a bilateral co-production agreement with a CARIFORUM country, Jamaica. Yet, the treaty came into force on 19 November 2007, i.e. before the EPA was signed. It is important to note that this agreement has not generated any film co-productions.

The CARIFORUM region has gained significant international recognition for its cultural assets. With over US $155 million dollars in cultural services exported in 2017, the region has a vested interest in further developing the sector. The activation of the Protocol on Cultural Cooperation will not only foster greater social cohesion but also contribute to job creation and assistance in developing the cultural sector. There has been limited promotion and use of the Protocol. However, efforts are underway to advance its activation and make use of all available opportunities. Work will continue on the implementing modalities of the Protocol in order to maximize CARIFORUM's cooperation with the European Union. To this end, CARIFORUM has prioritized several areas, including the performing arts. Engagement in these areas would allow for immediate technical support and build our capacities to create market access opportunities in the cultural sector.

Senator Hon. Paula Gopee-Scoon,
Minister of Trade and Industry, Trinidad and Tobago
Chair of the CARIFORUM-EU Joint Parliamentary Committee

The reason being that funding requirements are almost prohibitive: under Clause 10, the total financial contributions of the United Kingdom, Jamaican or third-party co-producer or co-producers (taken together) shall be no less than 20% and no more than 60% of the total production cost[31]. Again, financing seems to be the missing factor. This is in contrast to Trinidad and Tobago, where there has been a generous film rebate[32], which has been conceived as an investment incentive and has attracted a number of foreign films for on-location shoots as well as inter-industry collaboration.

Overall, the PCC has not yet been activated. This said, and as argued below, there has been wide recognition, among institutions, governmental and non-governmental agencies and industry organizations from both Parties, that it is time to remove implementation obstacles and move towards making the best of the EPA in the cultural domain[33].

31. See the Film Co-Production Agreement between the UK Government and the Government of Jamaica, *https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/243230/7168.pdf*

32. The Trinidad and Tobago Production Rebate Programme is administered by the Trinidad and Tobago Film Company (FilmTT), on behalf of the Government of the Republic of Trinidad and Tobago, and in collaboration with stakeholders from the Ministry of Finance and the Ministry of Trade and Industry. Cash rebates can be up to 55% for expenditures on qualifying local labour and 35% on other local expenditures. The requirements are, among others, that at least 50% of the principal photography must be done in Trinidad and Tobago, for a minimum of two weeks.

33. See *The Music Sector and CARIFORUM-EU Trade Relations*, Background Brief for the 3rd CARIFORUM-European Union Business Forum, April 15-16, 2015.

There have also been a number of events sponsored by the EU and EU Member States that have attempted to promote the objectives of the PCC and the 2005 Convention in European film festivals[34], joint business forums[35] and events organized by National Commissions for UNESCO[36].

Trends in cultural trade flows

It can be argued that the creative sector makes an important contribution to the Caribbean economy and has the potential to be a top export-earning sector. The EPA's trade performance can clearly be an indicator of implementation success. However, as this study confirmed, there are intrinsic difficulties in capturing data across areas of trade, in particular for services. This includes challenges to gathering data on earnings and cross-border flows in intellectual property, which have become increasingly important, given the rapid shift towards digitization in the creative sector[37].

One of the key issues to be mentioned in terms of assessing the impact of the EPA on cultural trade flows is that the EU market is not among the top ranked markets for creative workers in the Caribbean. In a regional survey of creative entrepreneurs, artists, managers and administrators[38], it was found that the top three export markets for the creative industries were the United States, the Caribbean diaspora abroad (again mostly in North America) and other CARIFORUM States (see Figure 1). The United Kingdom market was fourth ahead of Canada and the EU (excluding the United Kingdom). Latin America and Asia were the lowest ranked markets. From the standpoint of the EPA this means that the United Kingdom is considered as the primary EU market particularly for CARICOM countries; the exception from a CARIFORUM perspective is for firms from the Dominican Republic, where Spain is the major target market.

34. Based on interviews with DG Connect.

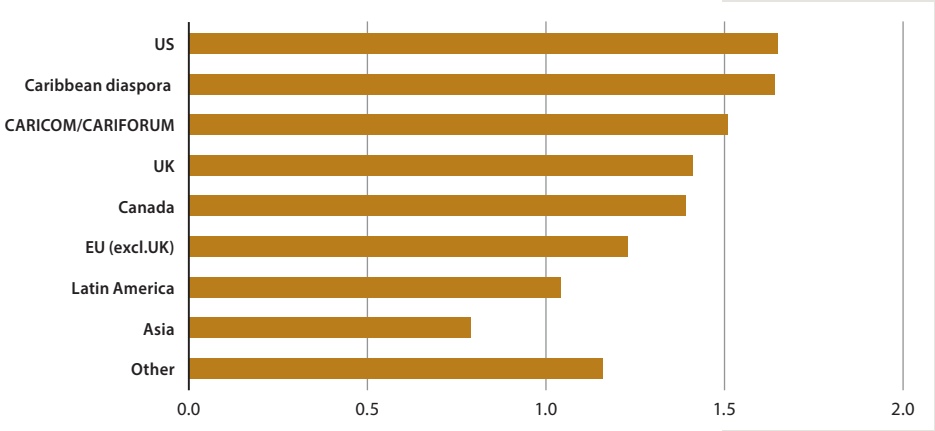
35. See *The Music Sector and CARIFORUM-EU Trade Relations*, Background Brief for the 3rd CARIFORUM-European Union Business Forum, April 15-16, 2015.

36. See "Fair Trade for Culture", an Initiative of the German Commission for UNESCO, Conference Report by Jordi Baltà Portolés, January 2019.

37. Keith Nurse, 'The Creative Economy and Creative Entrepreneurship in the Caribbean' in *Caribbean Popular Culture: Power, Politics and Performance*, Yanique Hume and Aaron Kamugisha (eds.), Ian Randle Publishers, 2016, pp. 693-706.

38. The regional online survey targeted a range of key stakeholders. Response data was collected from 151 respondents. A large share of the participatory respondents came from Trinidad and Tobago (26%), Belize (14%) and Barbados (11%). Across all CARIFORUM States, the largest share of respondents were sole entrepreneurs and private firms, accounting for 36% of all respondents to the survey.

Figure 1 • Ranking of export market opportunities



Source: SALISES/Nordicity (2017) Regional Strategic Plan for Cultural and Entertainment Services/Cultural Industries in CARICOM and CARIFORUM States, prepared for CARICOM Secretariat, Georgetown, Guyana.

This statistic illustrates (at least) two things: first, it shows the often profound differences between the Caribbean States in terms of their cultural relations and interests across regions and the EU in particular; second, and in view of the anticipated Brexit, it suggests that CARIFORUM States, as well as the EU would need to keep a close eye on developments and adapt accordingly.

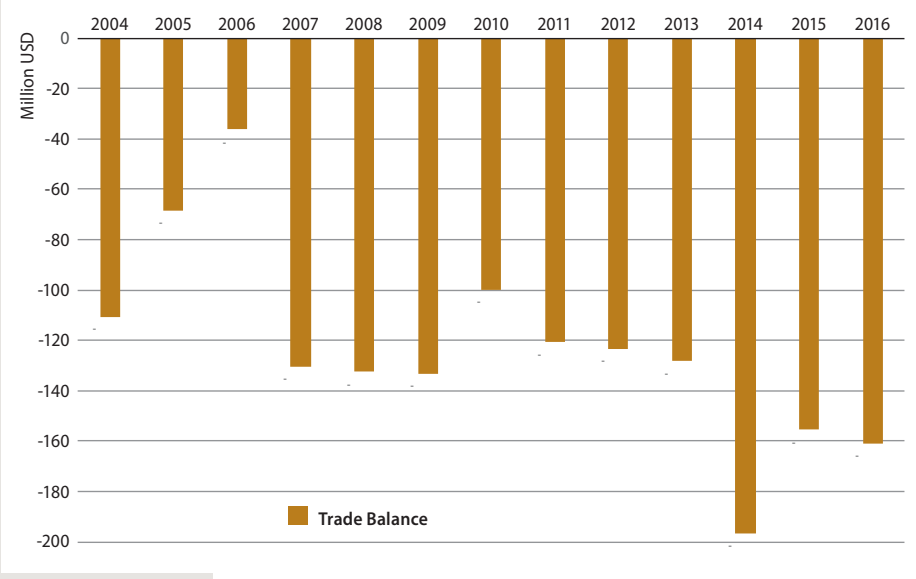
The United Kingdom negotiated a new agreement with CARIFORUM States in 2019, which replicates the conditions offered by the EU EPA (however without a PCC) and is bound to enter into force post-Brexit[39]. The overall impact of the United Kingdom leaving the EU on the CARIFORUM-EU relations remains to be seen. However, on the one hand, the UK is a key target market with longer traditions of exchange and embedded cultural relations. The UK may also be able to offer better mobility conditions for some creative sectors down the road (especially considering the already somewhat better treatment with regard to visas and temporary stay of Caribbean artists in the United Kingdom). On the other hand, United Kingdom trade with the Caribbean region has been in a process of secular decline for the last three decades, including tourism, which has been the main services export from the Caribbean.

39. UK Department for International Trade, *Continuing the United Kingdom's trade relationship with the CARIFORUM States: Economic Partnership Agreement between the CARIFORUM States, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part*, April 2019.

The budgetary opportunities offered by the EU and the EU Member States, especially if the EPA and the PCC are fully implemented, cannot be underestimated either and may attract newer creative entrepreneurial initiatives[40].

Creative goods trade is the largest source of flows between CARIFORUM and the EU. As would be expected given the relative size of the two Parties, trade imbalances persist with EU exports to the CARIFORUM region dwarfing imports. As Figure 2 illustrates, the trade deficit for the CARIFORUM region is in hundreds of millions. Indeed, the trade balance of creative goods in favour of European countries and in detriment of CARIFORUM States almost doubled from 2004 to 2014, with a slight reduction in 2015 and 2016. The slowdown in both exports and imports may be attributable to the global financial and economic crisis in 2007/2008, and the second dip may be associated with the rise of the digital economy and its impact on cultural trade, as well as the slowdown of the global economy in 2015 and 2016.

Figure 2 • CARIFORUM-EU Creative goods, Trade Balance, million US$

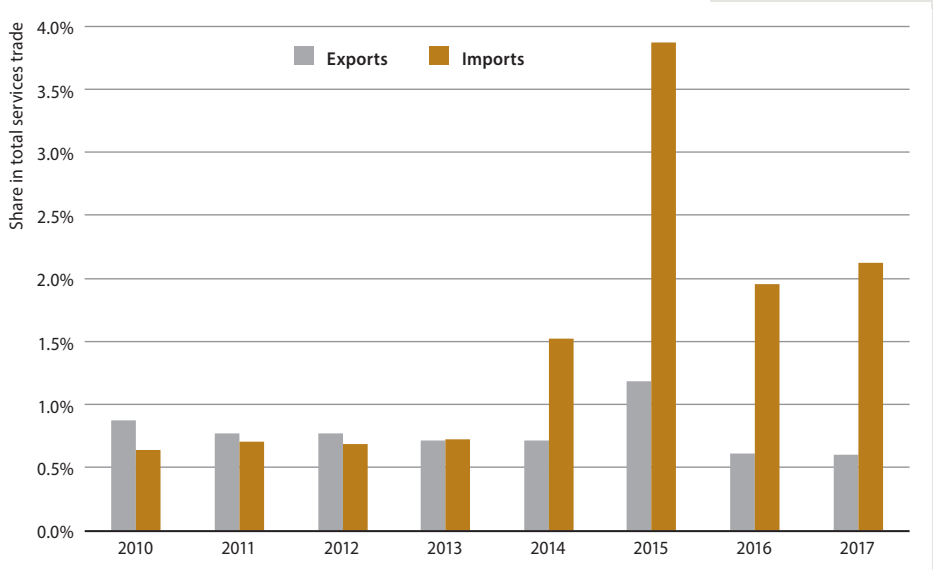


Source: UNESCO Institute for Statistics, International trade statistics database using COMTRADE data, 2019

40. See Jeetendra Khada and Inder Ruprah, Brexit and the Caribbean: Much Ado about Nothing, *IDB Policy Brief* IDB-PB-254, 2016; Mohammad Razzaque and Brendan Vickers, Post-Brexit UK-ACP Trading Arrangements: Some Reflections, *Trade Hot Topics Issue* 137, Commonwealth Secretariat, 2016.

The situation is similar for services, as no significant trade in creative services between CARIFORUM and EU occurred between 2010 and 2017, or at least no relevant data have been reported in the OECD database. This is reflected in Figure 3, which shows that the share of EU service exports to CARIFORUM States was on average less than 1% between 2010 and 2017. Services imports from CARIFORUM exceed exports showing a positive balance, which is, however, largely attributed to two countries, the Bahamas and the Cayman Islands.

Figure 3 • CARIFORUM-EU Share of CARIFORUM services exports and imports in the EU, 2010-2017

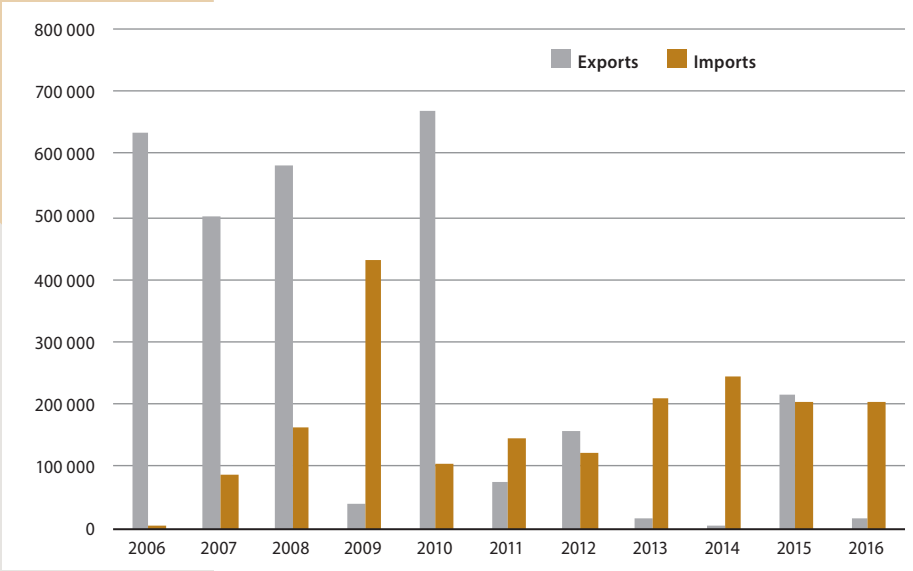


Source: UNESCO Institute for Statistics, International trade statistics database using OECD data, 2019

Before 2011, the Dominican Republic-United Kingdom creative goods trade was the only trading relationship where a CARIFORUM State generated a surplus with an EU Member State (see Figure 4). This surplus was short-lived however, as the Dominican Republic's exports declined dramatically from 2011 and fluctuated with deficits in 2013 and 2016.

When the data is further disaggregated what is notable is that the largest share of creative goods imported from the EU were books, mainly textbooks for the education sector. The books trade consistently accounts for over 80% of the creative imports in several territories throughout the period.

Figure 4 • Dominican Republic-UK trade in creative goods, 2006-16, US$



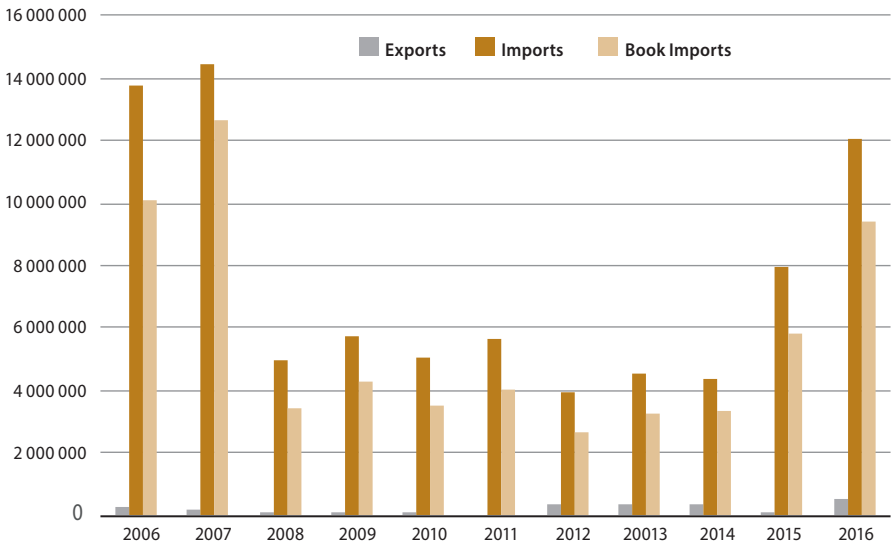
Source: UNESCO 2018

The biggest markets for European books are the Dominican Republic with Spain as the main supplier (see Figure 5) and the United Kingdom as the main supplier for Jamaica and Trinidad and Tobago (see Figures 6 and 7).

When it comes to goods export, Trinidad and Tobago's music industry is particularly helpful to illustrate the challenges faced by regional music industries (also because it has the most available and consistent data among CARIFORUM States). What is evident from Figure 8 is that music exports have dropped dramatically from 2009 to 2013. In effect, Trinidad and Tobago's music exports to the world declined by almost two-thirds from US$1.7 million to approximately US$647,000; exports to the EU and exports to other CARIFORUM States followed a similar trajectory, albeit with a sharp drop-off in recent years[41].

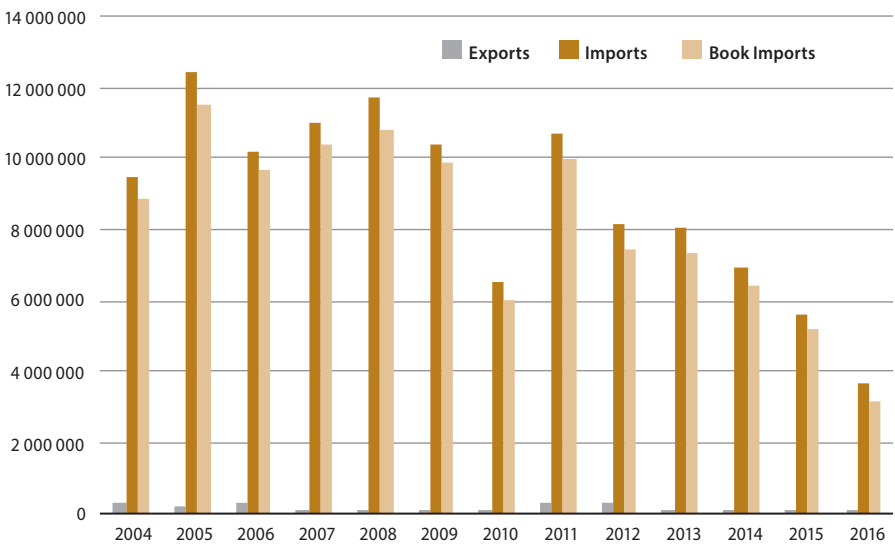
41. For a general reference, see the IFPI Global Music Report 2018, which recounts that "streaming revenues grow 41.1% to become largest revenue source, driven by 176 million users of paid subscription accounts… Streaming now accounts for 38.4% of total recorded music revenue and its growth has more than offset a 5.4% decline in physical revenue and a 20.5% decline in download revenue. Despite the recent uplift, revenues for 2017 are still only 68.4% of the market's peak in 1999". See *https://www.ifpi.org/news/IFPI-GLOBAL-MUSIC-REPORT-2018*

Figure 5 • Dominican Republic-Spain trade in creative goods, 2006-2016, US$



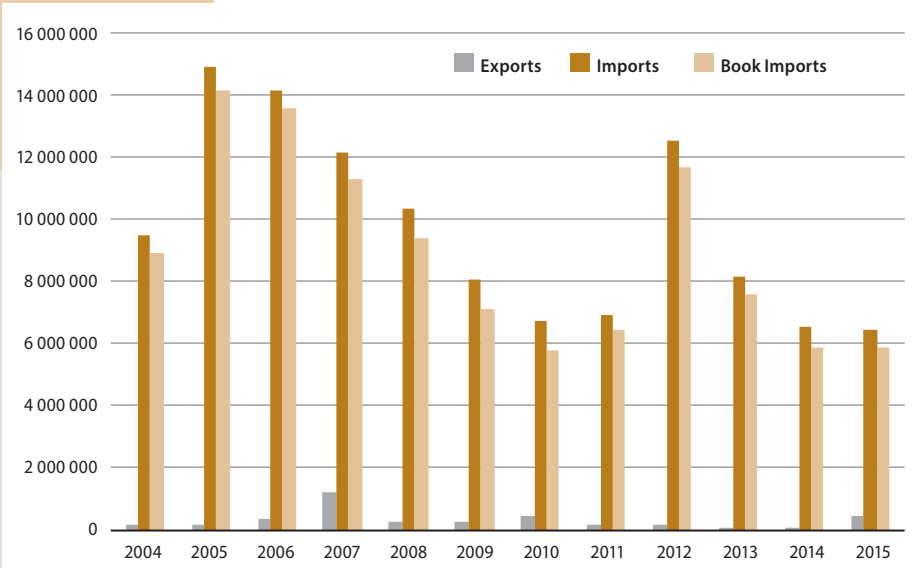
Source: UNESCO 2018

Figure 6 • Jamaica-UK trade in creative goods, 2004-16 US$



Source: UNESCO 2018

Figure 7 • Trinidad and Tobago-UK trade in creative goods, 2004-15, US$



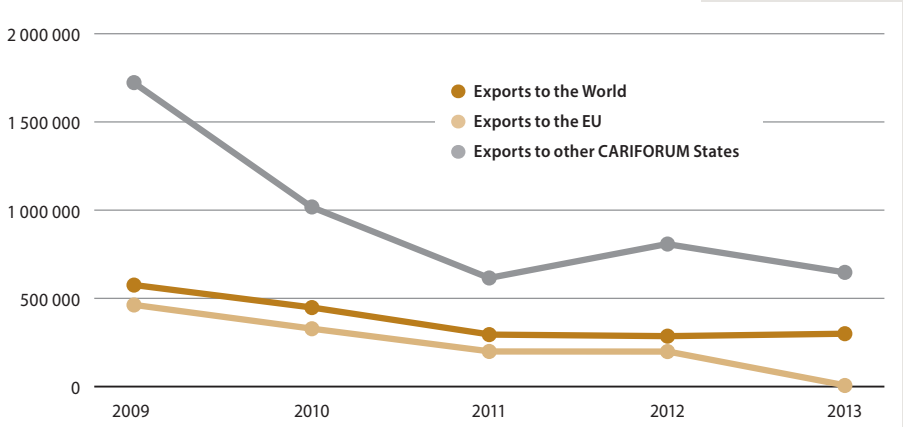
Source: UNESCO 2018

Figure 9 provides an overview of Trinidad and Tobago's music industry export earnings by market from 2009 to 2013. It shows that exports to the rest of the world have accounted for half of the exports, while exports to the EU account for 27% and exports to other CARIFORUM States account for 23%.

Figures for Jamaican music royalties indicate that there is a significant amount of trade with the EU. Total incoming royalties collected by the Jamaica Association of Authors, Composers and Publishers (JACAP 2009 and 2013) amounted to US$376,553. As Figure 10 shows, the majority, or 71%, of revenue originated from the EU, with the United Kingdom accounting for 90% of this amount and Sweden as the next largest source. The United Kingdom and Sweden generated collections of US$248,757 and US$19,097 respectively. The next highest source of collections for Jamaican creators was the United States which represented 13%, or US$49,570, of all incoming royalties.

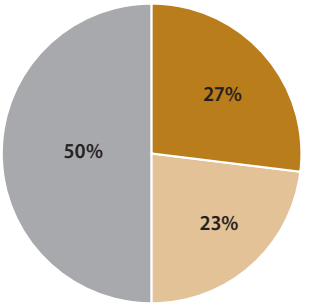
All this data needs to be considered within the context of changing music industry dynamics and the increasing importance of the online distribution of creative works.

Figure 8 • Trinidad & Tobago's annual music sector commodity exports **US$** (Under Product Heading HS Codes H1, H2, H3 and H4)



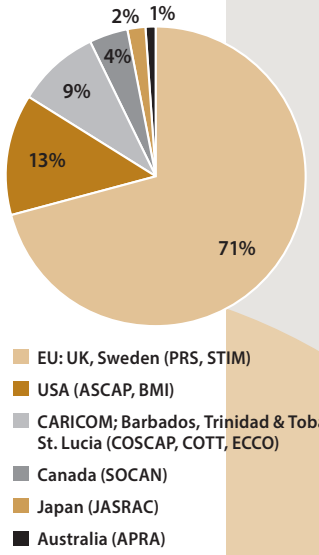
Source: UNCOMTRADE

Figure 9 • Trinidad and Tobago main markets for music goods exports, 2009-2013



Source: UNCOMTRADE 2016

Figure 10 • JACAP's incoming royalties from external markets, 2009 to 2013



Source: UWI Consulting (2017) Consultancy for an Assessment of the Tariff Principles and Practices of CMOs and to Recommend a Regional Tariffs System for the Caribbean, A study commissioned by the Caribbean Export Development Agency.

Overall, it can be said that the CARIFORUM-EU EPA has had no sizeable impact on trade figures. These trends mirror broader trade performances under the EPA, as detailed above. With regard to implementation efforts undertaken by CARIFORUM States, the statistics may mask some of the developments that can fuel true EPA implementation.

Building frameworks for exports and trade

The CARIFORUM-EU EPA has put forth an innovative framework for exports and trade[42]. While the CARIFORUM Secretariat and governmental agencies were optimistic through the mobilization of resources in the creative industries (through the 2012 draft Action Plan for the CARICOM's Council for Human and Social Development and the 2015 initiative for a "Regional Strategic Plan for Cultural and Entertainment Services / Cultural Industries in CARICOM and CARIFORUM States"), the desired momentum was never achieved. In fact, intra-regional trade and mobility in the creative sector have performed poorly[43].

In this regard, while governmental support is important, export agencies and business support organizations have played a critical role in facilitating the increased participation of creative producers and entrepreneurs. It is increasingly recognized that regional producers do not possess the business relationships or market intelligence required and that they do not meet global and EU market standards. Bridging these gaps is necessary to improve market entry.

Findings from the 2014 CARIFORUM-EU EPA study provide helpful insights. The study identified an increase in post-EPA trade between trade promotion organizations (TPOs) and business support organizations (BSOs) throughout the region[44].

42. Keith Nurse, 'The Economic Partnership Agreement and the Creative Sector: Implications and Prospects for Cariforum' in *The Cariforum-EU Economic Partnership Agreement: A Practitioners' Analysis*, A. Beviglia Zampetti and J. Lodge (eds.), Kluwer International, London, 2011, pp. 149-163.

43. See Joint Statement from the Fourth Meeting of the CARIFORUM-EU EPA Consultative Committee (CC), 3-4 December 2018, Castries, Saint Lucia; also *The Music Sector and CARIFORUM-EU Trade Relations*, Background Brief for the 3rd CARIFORUM-European Union Business Forum, April 15-16, 2015.

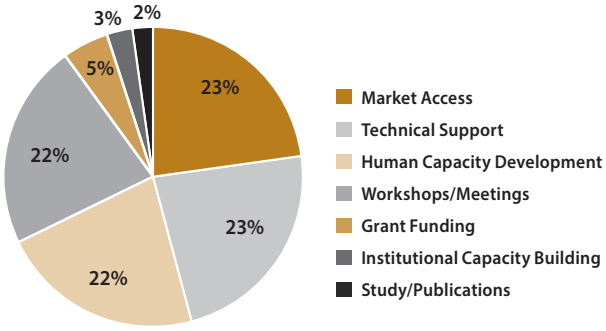
44. See Keith Nurse, *The UNESCO Convention and Preferential Treatment: Lessons and Insights from the CARIFORUM-EU Economic Partnership Agreement*, report commissioned by UNESCO, 2014.

Facilitating market integration? The case of Masquerade producers from Trinidad and Tobago

In 2014, the Mas Transformation Secretariat implemented the first Mas Trade and Tourism Mission, introducing six local masquerade experts to festival organizers and carnival bands in France and the Netherlands. The following year, the MTS partnered with the Federation of European Carnival Cities (FECC) and hosted 15 senior European Carnival officials for business meetings with local Mas experts. It is estimated that both missions collectively yielded 22 foreign working agreements with an additional 61 potential business opportunities.

Source: Mas Transformation Secretariat, Strengthening the Masquerade Industry, Port of Spain, Trinidad and Tobago, 2017.

Figure 11 • Types of support activity to the CARIFORUM creative sector post-EPA period 2011 to 2013



Source: See Keith Nurse, *The UNESCO Convention and Preferential Treatment: Lessons and Insights from the CARIFORUM-EU Economic Partnership Agreement*, report commissioned by UNESCO, 2014.

In a survey of 23 TPOs and BSOs, results revealed that a significant share (66%) of activities focused on individual-level interventions, namely human capacity development, technical support, training and workshops/seminars (see Figure 11). Industry-level activities accounted for the remaining 34% and included grant funding, institutional capacity building and participation in trade fairs and festivals.

The study concluded that, while post-EPA capacity building improved when compared to the pre-EPA period, an overwhelming amount of business support initiatives focused on individual-level interventions that were often ad hoc and uncoordinated. Most of the initiatives are one-off and stand-alone interventions that generate low levels of synergy and weak market entry. In effect, there are very few joint approaches that would allow for multi-level synergies to be generated.

Another key observation is that although there was a general understanding of the EPA by TPOs and the BSOs, there were no targeted programmes or activities aimed at tapping into specific sectors of the EU market. The main challenges are structural and require a collective response. At the industry level, new initiatives and approaches offering a range of trade facilitation and financing services have emerged that are promising for further EPA implementation. In the following sections, the study examines the role of three organizations, providing anecdotal evidence of EPA implementation and a model for future initiatives.

The Caribbean Export Development Agency

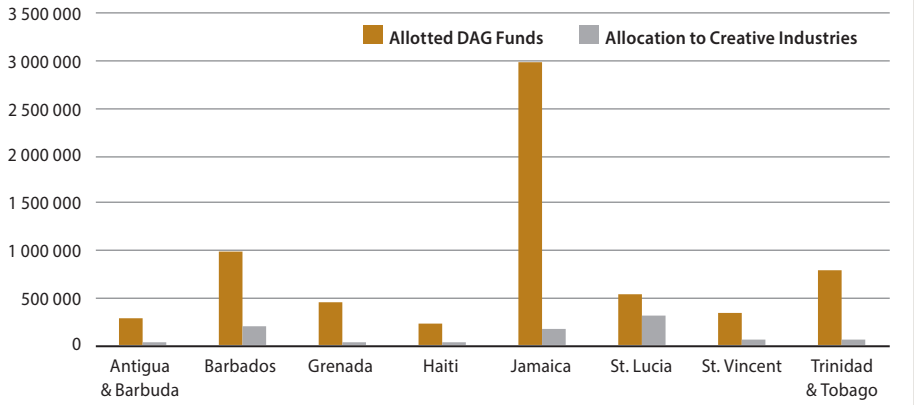
The Caribbean Export Development Agency (CEDA) has had a leading role in channelling the European Development Fund (EDF)'s resources for exporting and for export-ready CARIFORUM firms - through the CEDA's flagship programme, the Direct Assistance Grant Scheme (DAGS)[45]. Based on an assessment of DAGS beneficiaries from the 10th EDF Regional Private Sector Development Programme (RPSDP), it is estimated that 118 firms (42% of recipients) generated US$4.9 million in additional exports and created 138 new jobs.

The RPSDP focuses on 'new' sectors that have a clear Caribbean brand and a comparative advantage. The share of funds allocated to the creative industries is estimated at 5% out of a total of nine sectors awarded DAGS funding. More established sectors like agro-processing (31%), manufacturing (30%) and professional services (16%) attracted larger shares of the funding. The amount allocated to the creative industries was equivalent to that provided to specialized tourism, ICTs, and business support organizations and more than double that of renewable energy and health and wellness.

The countries with the highest share for the creative industries were Saint Lucia, Barbados, Saint Vincent and the Grenadines, Haiti and Jamaica.

45. The DAGS offers two facilities of funding. The Regular Procedures facility provides grants up to of €30,000, and for the Accelerated Procedures the maximum grant that can be awarded is €5,000. Further, no grant reimbursement may exceed 70% of the project's total cost.

Figure 12 • Caribbean Export Development Agency - Direct Assistance Grants and Allocation to Creative Industries (euros)

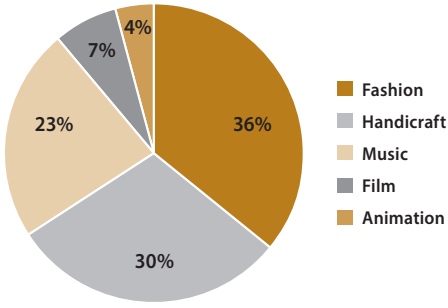


Source: Caribbean Export Development Agency, 2016

One of the additional benefits of financing and supporting trade services is that the application process encourages emerging firms to structure their business propositions in line with business plan requirements or a feasibility study. This is important to note, as DAGS is one of the main sources of alternative financing for the creative industries (see Figure 12).

Funding for the creative sector can be broken down by sub-sectors. As Figure 13 shows, the sectors which attracted the greatest share of funding were fashion (36%), followed by handicraft (30%), music (24%), film (14%) and animation (7%).

Figure 13 • Financing of Creative Industries Firms by Sector in CEDA Activities 10th EDF



Source: Caribbean Export Development Agency 2016

The EPA and the Cultural Protocol offer a level of predictability and transparency. While there are development provisions enshrined in the legal text itself, the specific Protocol on Cultural Cooperation is also important. The development cooperation provisions are sufficiently broad to allow CARIFORUM to determine their developmental needs and develop strategies for enhancing the sector.

Through the Export Strategy for the Cultural and Creative Industries developed in 2015, the Agency was able to address challenges and opportunities. This included capacity building at the enterprise and business support level and technical assistance. Under the 10th EDF Regional Private Sector Programme, 15% of the awards under the Direct Assistance Grant Scheme (DAGS) were directed to the creative industries.

The implementation of the EPA and the Protocol on Cultural Cooperation has been slow but steady. In the framework of its 10th and 11th EDF Regional Private Sector Development Programme, Caribbean Export continues to support the increased capacity of the sector. Interventions for culture in the music, fashion, craft, audiovisual and animation sectors have led to more business-oriented actions and to an increase in the quality of goods and services produced. The interventions have also led to better marketing and labelling, and to increased understanding of intellectual property rights and of the EPA. Understanding the cultural value chain has also allowed practitioners to take advantage of opportunities. In the music sector, there has been a particular focus on the music business and on increasing trade digitally. However, a few issues remain, namely visa requirements for CARIFORUM entry to operate within the EU (e.g. limited to tourism purposes, or excluding multiple entries) and the unclear interpretation of the Economic Needs Test. These issues must be addressed for proper implementation of the EPA and the Protocol.

S. H. Allyson Francis
Services Specialist, Caribbean Export Development Agency (CEDA)

Under the 10th EDF Regional Private Sector Development Programme, CEDA launched a series of export promotion platforms and facilitated the participation of regional SMEs and BSOs in trade missions and business linkages events, all of which have enhanced the regional private sector's engagement with the Agency. In fact, between 2011 and 2014, 51% of the event participants were from the creative industries[46].

46. See *Caribbean Export & EPA Implementation in the Caribbean Services Sector* (2011-2014), 7 January 2018 at *www.carib-export.com/publications/epa-implementation-in-the-caribbean-services-sector/*.

The CARIFORUM-EPA and its Protocol enabled the Copyright Society of Composers, Authors and Publishers (COSCAP) to achieve one of its aims of supporting the internationalisation of some of its members, in this case in the German market, through the development of a collaborative partnership with the European entity, World Music Expo (WOMEX). The performers benefited artistically as well as from a number of workshops on the business of music, the European music market and understanding the profile of the German market for calypso. They co-produced a concert with German artists and they were then invited to participate in a festival in Berlin the following year. One of the participants was able to sign a management agreement with a German firm and released an album targeting that market. Further training initiatives with WOMEX continued in Barbados in 2016 and 2019. One very important factor resulting from the EPA and Protocol, which facilitated market entry in Europe, was the removal of the short-stay visa requirements for Germany. Without the Protocol and the support provided, it would have been very difficult, if not impossible, for these small organisations to achieve the above. Furthermore, COSCAP and the Eastern Caribbean Collective Organization for Music Rights (ECCO) Inc., had also benefitted from a grant in 2009, which allowed for the training of agents and for the provision of the requisite technology to facilitate the expansion of collective management in the Eastern Caribbean States. Therefore, for these organisations, the EPA directly affected their technical and operational capacity and market development and achieved one of its aims of deepening regional integration.

Erica K. Smith
CEO, Copyright Society of Composers, Authors and Publishers Inc., (COSCAP) Barbados

The Programme supported the participation of artists and culture professionals in various European events including the World Music Expo (WOMEX) in Denmark in 2011, the *London Engage* initiative in 2012 which included activities such as the *Caribbean Soul Fusion* to promote emerging Caribbean musicians or the *Clermont-Ferrand Film Festival* (France) in 2014. The Agency also facilitated the participation of 22 cultural industry firms in European *Study Tours* in 2012 (France, Germany, United Kingdom), in order to promote the visibility of Caribbean industries in European markets. Participation in major cultural events and the promotion of the Caribbean's cultural industries in Europe strengthens the mobility of artists and culture professionals.

The Caribbean Tales Media Group

CaribbeanTales Media group is an example of institutional development in Caribbean-EU creative sector trade relations. CaribbeanTales provides a 'one-stop shop' for audiovisual creators in the Caribbean and its diaspora by facilitating the market entry, distribution and monetization of Caribbean-themed content.

CaribbeanTales launched its "3D" Project in 2014 (which stands for Digital, Domestic, and Diaspora Distribution) and aims to expand markets and contribute to the Caribbean film industry's global competitiveness. The "3D" project is financed in part by the European Union's ACP Cultures+ Programme. The CaribbeanTales Incubator programme is in its ninth year and has hosted over 60 filmmakers from around the region and the diaspora. The incubator focuses on the creation of long-running serial content in response to the shift in demand for online television series.

CaribbeanTales also provides an accelerator programme, a specialized and intensive market integration programme to fast-track export-ready film projects and to assist filmmakers in preparing and pitching their projects to prospective funders, investors and distributors. Accelerators have been held in the Caribbean (Belize (2016) and Cuba (2016 and 2017)), South Africa (CineFAM 2017) and in Canada (Digital Animation sponsored by the Canadian Broadcasting Corporation in 2017).

CaribbeanTales routinely participates in film markets like the Durban Film Market, the Cannes Film Festival, and the Havana International Film Festival. In terms of targeting the EU, CaribbeanTales has been engaging directly with French overseas territories like Martinique and Guadeloupe.

The Creative Industries Innovation Fund

The Caribbean Development Bank (CDB) has established the Cultural and Creative Industries Innovation Fund (CIIF) as a multi-donor fund launched in December 2018.

The US$2.8 million project seeks to support enabling environments for the development of cultural industries in the Bank's Borrowing Member Countries (BMCs) with a focus on legislative reforms and incentive policies; to improve the quality, depth and dissemination of research

The Caribbean Development Bank launched its Cultural and Creative Industries Innovation Fund (CIIF) on December 14, 2018. CIIF is intended to be a multi-donor Fund that will support the creative and cultural industries (CCI) sector development, and encourage innovation, job creation and improved enterprise sustainability by providing grant financing and technical assistance (TA).

In its initial phase, CIIF will focus on enhancing the technical capacity and knowledge of MSMEs and business support organizations in the CCI sector to develop new products/services, implement new business models, improve employee and managerial capacity, and improve their competitiveness. It is intended that these efforts will result in increased participation in local, regional and international markets, including new market access provided under the Economic Partnership Agreement (EPA).

CIIF will also provide targeted support for financing research, with a national, regional and/or sub-regional focus on developing or improving appropriate data collection frameworks, data capture of baseline data, market trends, and information on the development profile and needs of the CCIs sector. The aim is to assist in quantifying the contribution and potential of these industries for growth and development, including the impact the EPA has had on the sector, in order to inform future resource allocations.

Europe and the Caribbean have enormous cultural and creative assets, a wealth of ideas, artists and creative people. The CARIFORUM-EU EPA offers the opportunity to increase cultural exchanges and business cooperation. CIIF therefore values the importance of the EPA as an effective mechanism to facilitate market access. The hope is that through CIIF's interventions and collaboration with partners, Caribbean cultural practitioners will be able to exploit the opportunities afforded through increased market penetration and presence.

Lisa Harding
Coordinator of Micro, Small and Medium Enterprise Development, Caribbean Development Bank (CDB)

on the sector, and to strengthen the existing knowledge infrastructure related to cultural industries[47]. It also seeks to enhance the technical capacity and knowledge of micro, small and medium-sized enterprises (MSMEs) in the cultural industries to improve their competitiveness in local, regional and international markets and to strengthen businesses that support the cultural industries in their delivery of capacity building activities at national and regional levels.

47. For further details, see: *http://www.caribank.org/news/cdb-establishes-cultural-creative-industries-innovation-fund*

The Fund's three components will focus on supporting enabling environments for the development of data and market intelligence, the development of new products/services and the implementation of new business models to improve employee and managerial capacity and access new markets. It will primarily support projects within five priority sub-sectors: fashion and contemporary design, visual arts, audiovisual design (including film, animation and gaming), festivals and carnivals and music.

In terms of the latter, the CDB had already commissioned a study and implementation action plan for the music industry[48]. The project focused on digital and live music with the aim of enhancing the industry's global footprint. The study encouraged the creation of a regional digital platform for the dissemination of creative content as a priority area of action. This was considered critical for investment and capacity building in order to enhance exports in both digital and live music.

One of the specific outcomes of the study has been the proposed establishment of a regional trade association for the music industry, which will focus on digital aggregation, platformization[49] and capacity-building among industry stakeholders. A working group has been formed and the initiative has been facilitated by the Worldwide Independent Music Network (WIMN) based in London, which promotes the internationalization of independent music entrepreneurs and recording companies. WIMN has been able to facilitate access to major digital service providers like YouTube, Spotify, Amazon and Apple Music, which is an example of how to improve market entry capabilities and income generation for rights holders, music producers and creative digital entrepreneurs.

48. Policy Networks International (2017) Consultancy Services for a Feasibility Study and Action Plan for the Digitalisation of Caribbean Music and Capacity Building Initiative. Study commissioned by the Caribbean Development Bank.

49. Platformization describes the process by which major tech companies—GAFAM (Google, Apple, Facebook, Amazon, and Microsoft) in the Global North, and the so-called "three kingdoms" of the Chinese internet (Baidu, Alibaba, and Tencent) in Asia—are reconfiguring the production, distribution, and monetization of cultural products and services. The logic of platformization is impacting traditional cultural industries (e.g., music, news, museums, games, and fashion), as well as emergent digital sectors and communities of practice, such as livestreaming, podcasting, and "instagramming."

Conclusion

The CARIFORUM-EU EPA is unprecedented in its link to the 2005 Convention and in its attempt to include culture in a trade agreement. It is also the first agreement in which the EU grants market access commitments for the provision of entertainment services, including by natural persons and, through the PCC, for the preferential treatment of EU-Caribbean audiovisual co-productions to foster cultural exchanges.

Yet, it can be argued that the implementation efforts and results have not quite lived up to expectations. The challenges range from institutional and capacity constraints to legal complications, a lack of transparency in the conditions set out by individual States and failing links between implementing agencies, creative industry organizations and individual artists.

The CARIFORUM-EU EPA is unprecedented in its link to the 2005 Convention and in its attempt to include culture in a trade agreement

There are many additional drawbacks, as the PCC does not foresee any specific financial commitment by the EU or its Member States for its implementation. The capacity of CARIFORUM States to implement the EPA remains constrained by the level of financial support provided under the European Development Fund (EDF) Caribbean Regional Indicative Programme (CRIP) from 2008 to 2020 as well as by EU policy on differentiation in development aid. Moreover, in the cultural domain, EU Member States have not proactively promoted EPA implementation.

CARIFORUM States have struggled to make the best of opportunities created by the EPA. Overall and despite some exceptions, cultural policy reform and strategic industrial development have not been a priority for the region's cultural ministries/agencies. The hope of transitioning from trade in traditional products, such as sugar and bananas, towards an appropriate and sustainable mobilization of the cultural industries as one of the region's most promising commercial and tradeable asset bases, has not materialized[50].

50. Ben Garner, in *The politics of cultural development*. Trade, cultural policy and the UNESCO Convention on Cultural Diversity, Routledge, 2016, at 206; also SALISES/Nordicity (2017) Regional Strategic Plan for Cultural and Entertainment Services/Cultural Industries in CARICOM and CARIFORUM States. Prepared for CARICOM Secretariat, Georgetown, Guyana.

Regional integration and CARIFORUM-wide institutions have not performed satisfactorily. The national legal frameworks with regard to cultural policies, intellectual property protection and digitization, have somewhat been adapted but certainly not enough. There is limited private sector knowledge on how to leverage EPA opportunities, such as investment and joint venture opportunities, and there is no private sector access to financing mechanisms for exporting. The lack of regional and national industry associations to promote advocacy and support human and institutional capacity development for the creative sector has also had a negative effect. Start-up financing and business facilitation for clustering and incubation/accelerator programmes for the creative industries remains weak.

Fortunately, most of these implementation gaps and challenges have caught the attention of CARIFORUM-EU institutions. There has been a broad acknowledgement of the unfortunate status quo on the implementation of cultural provisions in particular and the need to take action and allocate funding[51]. Furthermore, at the fourth joint CARIFORUM-EU Council meeting (17 November 2017), the EU agreed to look at measures to facilitate the entry of foreigners supplying services and the identification of applicable legislation in a particular Member State in order to provide further legal certainty to other categories of service providers, including CSS and independent professionals.

There has been a broad acknowledgement of the unfortunate status quo on the implementation of cultural provisions in particular and the need to take action and allocate funding

A joint meeting on cultural cooperation held on 28 July 2017, ahead of the 7th CARIFORUM-EU Trade and Development Committee, also called for revised modalities in the effective implementation of the PCC. It highlighted persistent visa requirement challenges (and the applicability of the EU's Schengen Visa Regime for facilitating temporary entry under the EPA) and difficulties in accessing financing for priority sectors like audiovisual, performing arts and publishing sectors. The third consultative committee meeting (6-7 November 2017, Trinidad and Tobago) also highlighted key issues related to trade in services,

51. See *http://data.consilium.europa.eu/doc/document/ST-3651-2018-INIT/en/pdf*

which are of particular relevance to the creative sector, and called for better collection of statistics and disaggregated data by country and sector; better data protection regulation; improved mutual recognition of professional qualifications; and expanded provisions for business visas.

CARIFORUM has also called for information sharing on the regulatory environment of the entertainment services sector, the inclusion of the entertainment services sector in the EU's commitments on independent professionals and the removal of the formal qualification requirement for the entertainment services sector[52].

The importance of "building on the initiatives pursued thus far in the area of cultural cooperation with a view to ensuring the activation of the PCC"[53] was equally stressed during the third CARIFORUM-EU Joint Parliamentary Committee meeting held in Port of Spain, Trinidad and Tobago on 31 October-1 November 2017[54].

52. On the occasion of the 8th meeting of the Cariforum-EU Trade and Development Committee held in December 2018 in Saint Lucia.

53. See *http://www.europarl.europa.eu/cmsdata/119545/2nd%20CARIFORUM-EU%20declaration%20EN.pdf*

54. On the occasion of the 8th meeting of the Cariforum-EU Trade and Development Committee held in December 2018 in Saint Lucia.

Recommendations

The experience with the EPA suggests that having a trade agreement and the associated market access in place is not sufficient to improve trade, especially in an asymmetrical trade arrangement, such as the EPA, and in a domain as sensitive as culture. This begs the question of whether a more proactive approach is required to build market opportunities and facilitate trading relationships, through a combination of actions on the demand and supply side. Such actions may need to be taken along a continuous timeline, which can ultimately ensure the sustainable development of the creative sector in the Caribbean and increased CARIFORUM-EU cultural exchanges.

More broadly, it is recommended that the cultural sector be given greater priority as part of EPA implementation and in CARIFORUM-EU relations. The forthcoming Second Five-Year Review (due in 2020) provides an excellent opportunity to look at the past reporting period and set clear objectives for the next years that can lead to effective EPA implementation in the cultural domain and contribute to the attainment of the 2005 Convention's goals and the SDGs. The Second Five-Year Review can also be a timely opportunity to establish a knowledge infrastructure for data capture and to build a cultural observatory for ongoing monitoring and evaluation of the EPA. There are also some specific areas for priority action that can be undertaken. The following recommendations are suggested against the backdrop of this study's findings:

European Union	CARIFORUM
Encourage all EU Member States to ratify the EPA.	Encourage all CARIFORUM States to ratify the EPA.
Establish a specific implementing body for the cultural provisions of the EPA, in particular for the purposes of the Protocol on Cultural Cooperation.	Strengthen inter-regional cooperation for the implementation of the cultural components of the EPA and coordinate efforts in a cost-effective and sustainable manner.
Ensure transparency and raise awareness of the opportunities available to Caribbean cultural businesses and artists in all EU Member States.	Adapt domestic cultural policy and legal frameworks to acknowledge the value of Caribbean creativity in trade.
Invest in economic and market intelligence through creative sector mapping to identify cooperation opportunities, develop a database of main stakeholders, and outline funding opportunities for cultural operators.	Enforce intellectual property rights in the creative sector, particularly on digital platforms.
Increase funding for creative industries in the CARIFORUM region (e.g. by earmarking EDF resources).	Build a framework for market intelligence (i.e. a database) of relevant EU industry professionals and firms in key sub-sectors.
Implement commitments on contractual service suppliers for the entertainment sector (and other service sectors) under the EPA.	Establish sustainable access to EU trade fairs, expos, festivals for CARIFORUM cultural professionals.
Introduce an EU touring visa for artists, to increase trade in services from the Caribbean.	Strengthen regional industry associations in key creative sub-sectors and establish strong cluster and incubation/accelerator programmes for better market integration.
Relax additional modalities, such as ENTs and qualification requirements, for Caribbean entertainment service providers.	Promote and implement innovative financing mechanisms through regional development banks and export-import banks that allow for the collateralization of intellectual property assets.
Encourage EU Member States to conclude bilateral and/or regional cultural cooperation agreements with CARIFORUM States as envisaged under the Protocol on Cultural Cooperation, with increased incentives for audiovisual co-productions and co-distribution in the digital environment.	Develop proposals for implementing the provisions of the Protocol on Cultural Cooperation by making formal proposals to specific EU governments on cultural cooperation initiatives, including for the transition to new digital and mobile platforms.

Annexes

Annex 1 76

CARIFORUM-EU ECONOMIC PARTNERSHIP AGREEMENT

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Annex 2 105

CARIFORUM-EU ECONOMIC PARTNERSHIP AGREEMENT

PROTOCOL III on cultural cooperation

Annex 1

CARIFORUM-EU ECONOMIC PARTNERSHIP AGREEMENT

TITLE II: INVESTMENT, TRADE IN SERVICES AND E-COMMERCE

CHAPTER 1
General provisions

Article 60
Objective, scope and coverage

1. The Parties and the Signatory CARIFORUM States, reaffirming their commitments under the WTO Agreement and with a view to facilitating the regional integration and sustainable development of the Signatory CARIFORUM States and their smooth and gradual integration in the world economy, hereby lay down the necessary arrangements for the progressive, reciprocal and asymmetric liberalisation of investment and trade in services and for cooperation on e-commerce.

2. Nothing in this Title shall be construed to require the privatisation of public undertakings or to impose any obligation with respect to government procurement.

3. The provisions of this Title shall not apply to subsidies granted by the Parties or the Signatory CARIFORUM States.

4. Consistent with the provisions of this Title, the Parties and the Signatory CARIFORUM States retain the right to regulate and to introduce new regulations to meet legitimate policy objectives.

5. This Title shall not apply to measures affecting natural persons seeking access to the employment market of the EC Party or of the Signatory CARIFORUM States, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

Nothing in this Title shall prevent the Parties or the Signatory CARIFORUM States from applying measures to regulate the entry of natural persons into, or their temporary stay in, their territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across their borders, provided that such measures are not applied in such a manner as to nullify or impair the benefits accruing to any Party under the terms of a specific commitment.

Article 61

Definitions

For the purposes of this Title:

(a) "measure" means any measure by the Parties or by the Signatory CARIFORUM States, whether in the form of a law, regulation, rule, procedure, decision, administrative action, or any other form;

(b) "measures adopted or maintained by the Parties or by the Signatory CARIFORUM States" means measures taken by:

(i) central, regional or local governments and authorities; and

(ii) non-governmental bodies in the exercise of powers delegated by central, regional or local governments or authorities;

(c) "natural person of the EC Party" or "natural person of the Signatory CARIFORUM States" means a national of one of the Member States of the European Union or of the Signatory CARIFORUM States according to their respective legislation;

(d) "juridical person" means any legal entity duly constituted or otherwise organised under applicable law, whether for profit or otherwise, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;

(e) "juridical person of a Party" means a juridical person of the EC Party or a Signatory CARIFORUM State set up in accordance with the laws of a Member State of the European Union or of a Signatory CARIFORUM State respectively, and having its registered office, its central administration, or its principal place of business in the territory to which the Treaty establishing the European Community applies or in the territory of a Signatory CARIFORUM State, respectively;

Should the juridical person have only its registered office or central administration in the territory to which the Treaty establishing the European Community applies or in the territory of the Signatory CARIFORUM States respectively, it shall not be considered as a juridical person of the EC Party or of a Signatory CARIFORUM State respectively, unless it engages in substantive business operations[1] in the territory to which the Treaty establishing the European Community applies or of a Signatory CARIFORUM State, respectively;

Notwithstanding the preceding paragraph, shipping companies established outside the EC Party or the CARIFORUM States and controlled by nationals of a Member State of the European Union or of a Signatory CARIFORUM State, respectively, shall also be beneficiaries of the provisions of this Agreement, if their vessels are registered in accordance with their respective legislation, in that Member State of the European Union or in a Signatory CARIFORUM State and carry the flag of a Member State of the European Union or of a Signatory CARIFORUM State;

(f) an "economic integration agreement" shall mean an agreement substantially liberalising trade in services and investment pursuant to WTO rules.

Article 62

Future liberalisation

In pursuance of the objectives of this Title, the Parties shall enter into further negotiations on investment and trade in services no later than five years from the

1. In line with its notification of the EC Treaty to the WTO (WT/REG39/1), the EC Party understands that the concept of 'effective and continuous link' with the economy of a Member State enshrined in Article 48 of the EC Treaty is equivalent to the concept of 'substantive business operations' provided in Article V, paragraph 6, of the GATS, and in this Agreement.

date of entry into force of this Agreement with the aim of enhancing the overall commitments undertaken under this Title.

Article 63

Application to the Commonwealth of the Bahamas and the Republic of Haiti

With a view to incorporating in Annex IV the commitments of the Commonwealth of the Bahamas and the Republic of Haiti, which shall be compatible with the relevant requirements under the General Agreement on Trade in Services (hereinafter the GATS), the Parties and the Signatory CARIFORUM States shall make changes to this Annexe by decision of the CARIFORUM-EC Trade and Development Committee no later than six months after the signature of this Agreement. Pending the adoption of such decision, the preferential treatment granted by the EC Party under this Title shall not be applicable to the Commonwealth of the Bahamas and the Republic of Haiti.

Article 64

Regional CARIFORUM integration

1. The Parties recognise that economic integration among CARIFORUM States, through the progressive removal of remaining barriers and the provision of appropriate regulatory frameworks for trade in services and investment will contribute to the deepening of their regional integration process and the realisation of the objectives of this Agreement.

2. The Parties further recognise that the principles set in Chapter 5 of this Title to support the progressive liberalisation of investment and trade in services between the Parties provide a useful framework for the further liberalisation of investment and trade in services between CARIFORUM States in the context of their regional integration.

CHAPTER 2
Commercial presence

Article 65

Definitions

For purposes of this Chapter:

(a) "commercial presence" means any type of business or professional establishment through:

(i) the constitution, acquisition or maintenance of a juridical person[2], or

(ii) the creation or maintenance of a branch or representative office within the territory of the EC Party or of the Signatory CARIFORUM States for the purpose of performing an economic activity;

(b) "investor" means any natural or juridical person that performs an economic activity through setting up a commercial presence;

(c) "investor of a Party" means a natural or juridical person of the EC Party or a natural or juridical person of a Signatory CARIFORUM State that performs an economic activity through setting up a commercial presence;

(d) "economic activity" does not include activities carried out in the exercise of governmental authority, i.e. activities carried out neither on a commercial basis nor in competition with one or more economic operators;

2. The terms 'constitution' and 'acquisition' of a juridical person shall be understood as including capital participation in a juridical person with a view to establishing or maintaining lasting economic links. When the juridical person has the status of a company limited by shares, there is a lasting economic link where the block of shares held enables the shareholder, either pursuant to the provisions of national laws relating to companies limited by shares or otherwise, to participate effectively in the management of the company or in its control. Long-term loans of a participating nature are loans for a period of more than five years which are made for the purpose of establishing or maintaining lasting economic links; the main examples being loans granted by a company to its subsidiaries or to companies in which it has a share and loans linked with a profit-sharing arrangement.

(e) "subsidiary" of a juridical person means a juridical person which is effectively controlled by another juridical person[3];

(f) "branch" of a juridical person means a place of business not having legal personality which has the appearance of permanency, such as the extension of a parent body, has a management and is materially equipped to negotiate business with third parties so that such third parties, although knowing that there will if necessary be a legal link with the parent body, the head office of which is abroad, do not have to deal directly with such parent body but may transact business at the place of business constituting the extension.

Article 66

Coverage

This Chapter applies to measures by the Parties or by the Signatory CARIFORUM States affecting commercial presence[4] in all economic activities with the exception of:

(a) mining, manufacturing and processing of nuclear materials;

(b) production of or trade in arms, munitions and war material;

(c) audio-visual services;

(d) national maritime cabotage[5]; and

(e) national and international air transport services, whether scheduled or non-scheduled, and services directly related to the exercise of traffic rights, other than:

(i) aircraft repair and maintenance services during which an aircraft is withdrawn from service;

(ii) the selling and marketing of air transport services;

(iii) computer reservation system (CRS) services;

(iv) other ancillary services that facilitate the operation of air carriers, such as ground handling services, rental services of aircraft with crew, and airport management services.

Article 67

Market access

1. With respect to market access through commercial presence, the EC Party and the Signatory CARIFORUM States shall accord to commercial presences and investors of the other Party a treatment no less favourable than that provided for in the specific commitments contained in Annex IV.

2. In sectors where market access commitments are undertaken, the measures which the EC Party and the Signatory CARIFORUM States shall not maintain or adopt either on the basis of a regional subdivision or on the basis of their entire territory, unless otherwise specified in Annex IV, are defined as:

(a) limitations on the number of commercial presences whether in the form of numerical quotas, monopolies, exclusive rights or other commercial presence requirements such as economic needs tests;

(b) limitations on the total value of transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

3. A juridical person is controlled by another juridical person if the latter has the power to name a majority of its directors or otherwise to legally direct its actions.

4. Measures relating to expropriation and investor-to-State dispute settlement such as those covered in bilateral investment treaties are not deemed to affect commercial presence.

5. National maritime cabotage covers transport services within a Signatory CARIFORUM State or within a Member State of the European Union for the carriage of passengers or goods originating and terminating in that Signatory Cariforum State or in that Member State of the European Union.

(c) limitations on the total number of operations or on the total quantity of output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test[6];

(d) limitations on the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment; and

(e) measures which restrict or require specific types of commercial presence (subsidiary, branch, representative office)[7] or joint ventures through which an investor of the other Party may perform an economic activity.

Article 68

National treatment

1. In the sectors where market access commitments are inscribed in Annex IV and subject to any conditions and qualifications set out therein, with respect to all measures affecting commercial presence, the EC Party and the Signatory CARIFORUM States shall grant to commercial presences and investors of the other Party treatment no less favourable than that they accord to their own like commercial presences and investors.

2. The EC Party and the Signatory CARIFORUM States may meet the requirement of paragraph 1 by according to commercial presences and investors of the other Party, either formally identical treatment or formally different treatment to that they accord to their own like commercial presences and investors.

3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of commercial presences and investors of the EC Party or of the Signatory CARIFORUM States compared to like commercial presences and investors of the other Party.

4. Specific commitments assumed under this Article shall not be construed to require the EC Party or the Signatory CARIFORUM States to compensate for inherent competitive disadvantages which result from the foreign character of the relevant commercial presences and investors.

Article 69

Lists of commitments

The sectors liberalised by the EC Party and by the Signatory CARIFORUM States pursuant to this Chapter and, by means of reservations, the market access and national treatment limitations applicable to commercial presences and investors of the other Party in those sectors are set out in lists of commitments included in Annex IV.

Article 70

Most-favoured-nation treatment

1. With respect to any measures affecting commercial presence covered by this Chapter:

(a) the EC Party shall accord to commercial presences and investors of the Signatory CARIFORUM States a treatment no less favourable than the most favourable treatment applicable to like commercial presences and investors of any third country with whom it concludes an economic integration agreement after the signature of this Agreement;

6. Subparagraphs 2(a), 2(b) and 2(c) do not cover measures taken in order to limit the production of an agricultural product.

7. Each Party or Signatory CARIFORUM State may require that in the case of incorporation under its own law, investors must adopt a specific legal form. To the extent that such requirement is applied in a non-discriminatory manner, it does not need to be specified in a Party's list of commitments in order to be maintained or adopted by that Party.

(b) the Signatory CARIFORUM States shall accord to the commercial presences and investors of the EC Party a treatment no less favourable than the most favourable treatment applicable to like commercial presences and investors of any major trading economy with whom they conclude an economic integration agreement after the signature of this Agreement.

2. When a Party or a Signatory CARIFORUM State concludes a regional economic integration agreement creating an internal market or requiring the parties thereto to significantly approximate their legislation with a view to removing non-discriminatory obstacles to commercial presence and to trade in services, the treatment that such Party or Signatory CARIFORUM State grants to commercial presences and investors of third countries in sectors subject to the internal market or to the significant approximation of legislation is not covered by the provision of paragraph 1[8].

3. The obligations set out in paragraph 1 shall not apply to treatment granted:

(a) under measures providing for recognition of qualifications, licences or prudential measures in accordance with Article VII of the GATS or its Annex on Financial Services,

(b) under any international agreement or arrangement relating wholly or mainly to taxation, or

(c) under measures benefiting from the coverage of an MFN exemption listed in accordance with Article II.2 of the GATS.

4. For the purpose of this provision, a "major trading economy" means any developed country, or any country accounting for a share of world merchandise exports above 1 % in the year before the entry into force of the economic integration agreement referred to in paragraph 1, or any group of countries acting individually, collectively or through an economic integration agreement accounting collectively for a share of world merchandise exports above 1,5 % in the year before the entry into force of the economic integration agreement referred to in paragraph 1.[9]

5. Where any Signatory CARIFORUM State becomes party to an economic integration agreement with a third party referred to in paragraph 1(b) and that agreement provides for more favourable treatment to such third party than that granted by the Signatory CARIFORUM State to the EC Party pursuant to this Agreement, the Parties shall enter into consultations. The Parties may decide whether the concerned Signatory CARIFORUM State may deny the more favourable treatment contained in the economic integration agreement to the EC Party. The Joint CARIFORUM-EC Council may adopt any necessary measures to adjust the provisions of this Agreement.

Article 71

Other agreements

Nothing in this Title shall be taken to limit the rights of investors of the Parties to benefit from any more favourable treatment provided for in any existing or future international agreement relating to investment to which a Member State of the European Union and a Signatory CARIFORUM State are parties.

8. At the time of signature of this Agreement, the European Economic Area, pre-accession agreements to the European Union, the CARICOM Single Market and Economy, and the CARICOM-Dominican Republic Free Trade Agreement are deemed to fall in their entirety under this exception.

9. For this calculation official data by the WTO on leading exporters in world merchandise trade (excluding intra-EU trade) shall be used.

Article 72

Behaviour of investors

The EC Party and the Signatory CARIFORUM States shall cooperate and take, within their own respective territories, such measures as may be necessary, inter alia, through domestic legislation, to ensure that:

(a) Investors be forbidden from, and held liable for, offering, promising or giving any undue pecuniary or other advantage, whether directly or through intermediaries, to any public official or member of his or her family or business associates or other person in close proximity to the official, for that person or for a third party, in order that the official or third party act or refrain from acting in relation to the performance of official duties, or in order to achieve any favour in relation to a proposed investment or any licences, permits, contracts or other rights in relation to an investment.

(b) Investors act in accordance with core labour standards as required by the International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work, 1998, to which the EC Party and the Signatory CARIFORUM States are parties.[10]

(c) Investors do not manage or operate their investments in a manner that circumvents international environmental or labour obligations arising from agreements to which the EC Party and the Signatory CARIFORUM States are parties.

(d) Investors establish and maintain, where appropriate, local community liaison processes, especially in projects involving extensive natural resource-based activities, in so far that they do not nullify or impair the benefits accruing to the other Party under the terms of a specific commitment.

Article 73

Maintenance of standards

The EC Party and the Signatory CARIFORUM States shall ensure that foreign direct investment is not encouraged by lowering domestic environmental, labour or occupational health and safety legislation and standards or by relaxing core labour standards or laws aimed at protecting and promoting cultural diversity.

Article 74

Review

With a view to the progressive liberalisation of investments, the Parties shall review the investment legal framework, the investment environment, and the flow of investment between them consistent with their commitments in international agreements no later than three years after the entry into force of this Agreement and at regular intervals thereafter.

CHAPTER 3

Cross-border supply of services

Article 75

Coverage and definitions

1. This Chapter applies to measures by the Parties or by the Signatory CARIFORUM States affecting the cross-border supply of all services with the exception of:

(a) audio-visual services;

10. These core labour standards are further elaborated, in accordance with the Declaration, in ILO Conventions concerning freedom of association, the elimination of forced labour, the abolition of child labour and the elimination of discrimination in the work place.

(b) national maritime cabotage[11]; and

(c) national and international air transport services, whether scheduled or non-scheduled, and services directly related to the exercise of traffic rights, other than:

(i) aircraft repair and maintenance services during which an aircraft is withdrawn from service;

(ii) the selling and marketing of air transport services;

(iii) computer reservation system (CRS) services; and

(iv) other ancillary services that facilitate the operation of air carriers, such as ground handling services, rental services of aircraft with crew, and airport management services.

2. For the purpose of this Chapter:

(a) cross-border supply of services is defined as the supply of a service:

(i) from the territory of a Party into the territory of the other Party (Mode 1);

(ii) in the territory of a Party to the service consumer of the other Party (Mode 2);

(b) "services" includes any service in any sector except services supplied in the exercise of governmental authority;

(c) "a service supplied in the exercise of governmental authority" means any service which is supplied neither on a commercial basis, nor in competition with one or more service suppliers;

(d) "service supplier" means any natural or juridical person that seeks to supply or supplies a service;

(e) "service supplier of a Party" means a natural or juridical person of the EC Party or a natural or juridical person of a Signatory CARIFORUM State that seeks to supply or supplies a service;

(f) "supply of a service" includes the production, distribution, marketing, sale and delivery of a service.

Article 76

Market access

1. With respect to market access through the cross-border supply of services, the EC Party and the Signatory CARIFORUM States shall accord services and service suppliers of the other Party treatment not less favourable than that provided for in the specific commitments contained in Annex IV.

2. In sectors where market access commitments are undertaken, the measures which the EC Party and the Signatory CARIFORUM States shall not maintain or adopt either on the basis of a regional subdivision or on the basis of their entire territory, unless otherwise specified in Annex IV, are defined as:

(a) limitations on the number of services suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirements of an economic needs test;

(b) limitations on the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;

(c) limitations on the total number of service operations or on the total quantity of service output expressed in the terms of designated numerical units in the form of quotas or the requirement of an economic needs test.

11. National maritime cabotage covers transport services within a Signatory CARI-FORUM State or within a Member State of the European Union for the carriage of passengers or goods originating and terminating in that CARIFORUM State or in that Member State.

Article 77

National treatment

1. In the sectors where market access commitments are inscribed in Annex IV, and subject to any conditions and qualifications set out therein, the EC Party and the Signatory CARIFORUM States shall grant to services and service suppliers of the other Party, in respect of all measures affecting the cross-border supply of services, treatment no less favourable than that they accord to their own like services and services suppliers.

2. The EC Party and the Signatory CARIFORUM States may meet the requirement of paragraph 1 by according to services and service suppliers of the other Party, either formally identical treatment or formally different treatment to that they accord to their own like services and service suppliers.

3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the EC Party or of the Signatory CARIFORUM States compared to like services or service suppliers of the other Party.

4. Specific commitments assumed under this Article shall not be construed to require the EC Party or the Signatory CARIFORUM States to compensate for inherent competitive disadvantages which result from the foreign character of the relevant services or services suppliers

Article 78

Lists of commitments

The sectors liberalised by the EC Party and by the Signatory CARIFORUM States pursuant to this Chapter and, by means of reservations, the market access and national treatment limitations applicable to services and services suppliers of the other Party in those sectors are set out in lists of commitments included in Annex IV.

Article 79

Most-favoured-nation treatment

1. With respect to any measure affecting cross-border supply of services covered by this Chapter,

(a) the EC Party shall accord to services and services suppliers of the Signatory CARIFORUM States a treatment no less favourable than the most favourable treatment applicable to like services and services suppliers of any third country with whom it concludes an economic integration agreement after the signature of this Agreement;

(b) the Signatory CARIFORUM States shall accord to the services and services suppliers of the EC Party a treatment no less favourable than the most favourable treatment applicable to like services and services suppliers of any major trading economy with whom they conclude an economic integration agreement after the signature of this Agreement.

2. When a Party or a Signatory CARIFORUM State concludes a regional economic integration agreement creating an internal market or requiring the parties thereto to significantly approximate their legislation with a view to removing non-discriminatory obstacles to trade in services, the treatment that such Party or Signatory CARIFORUM State grants to services and services suppliers of third countries in sectors subject to the internal market or to the

significant approximation of legislation is not covered by the provision of paragraph 1[12].

3. The obligations set out in paragraph 1 shall not apply to treatment granted:

(a) under measures providing for recognition of qualifications, licences or prudential measures in accordance with Article VII of the GATS or its Annex on Financial Services;

(b) under any international agreement or arrangement relating wholly or mainly to taxation; or

(c) under measures benefiting from the coverage of an MFN exemption listed in accordance with Article II.2 of the GATS.

4. For the purpose of this provision, a "major trading economy" means any developed country, or any country accounting for a share of world merchandise exports above 1 % in the year before the entry into force of the economic integration agreement referred to in paragraph 1, or any group of countries acting individually, collectively or through an economic integration agreement accounting collectively for a share of world merchandise exports above 1,5 % in the year before the entry into force of the economic integration agreement referred to in paragraph 1.[13]

5. Where any Signatory CARIFORUM State becomes party to an economic integration agreement with a third party referred to in paragraph 1(b) and that agreement provides for more favourable treatment to such third party than that granted by the Signatory CARIFORUM State to the EC Party pursuant to this Agreement, the Parties shall enter into consultations. The Parties may decide whether the concerned Signatory CARIFORUM State may deny the more favourable treatment contained in the economic integration agreement to the EC Party. The Joint CARIFORUM-EC Council may adopt any necessary measures to adjust the provisions of this Agreement.

12. At the time of signature of this Agreement, the European Economic Area, pre-accession agreements to the European Union, the CARICOM Single Market and Economy, and the CARICOM-Dominican Republic Free Trade Agreement are deemed to fall in their entirety under this exception.

13. For this calculation official data by the WTO on leading exporters in world merchandise trade (excluding intra-EU trade) shall be used.

CHAPTER 4

Temporary presence of natural persons for business purpose

Article 80

Coverage and definitions

1. This Chapter applies to measures by the Parties or by the Signatory CARIFORUM States concerning the entry into and temporary stay in their territories of key personnel, graduate trainees, business services sellers, contractual services suppliers, independent professionals and short term visitors for business purposes, in accordance with Article 60(5).

2. For the purposes of this Chapter:

(a) "key personnel" means natural persons employed within a juridical person of the EC Party or of the Signatory CARIFORUM States other than a non-profit organisation and who are responsible for the setting-up or the proper control, administration and operation of a commercial presence;

"key personnel" comprise "business visitors" responsible for setting up a commercial presence and "intra-corporate transfers";

- "business visitors" mean natural persons working in a senior position who are responsible for setting up a commercial presence. They do not engage in direct

transactions with the general public and do not receive remuneration from a source located within the host EC Party or Signatory CARIFORUM State respectively;

- "intra-corporate transfers" mean natural persons of the EC Party or of the Signatory CARIFORUM States who have been employed by a juridical person or have been partners in it for at least one year and who are temporarily transferred to a commercial presence in the territory of the other Party. The natural person concerned must belong to one of the following categories:

1. Managers:

Persons working in a senior position within a juridical person, who primarily direct the management of the commercial presence, receiving general supervision or direction principally from the board of directors or stockholders of the business or their equivalent, including:

(i) directing the commercial presence or a department or sub-division thereof;

(ii) supervising and controlling the work of other supervisory, professional or managerial employees;

(iii) having the authority personally to recruit and dismiss or recommend recruiting, dismissing or other personnel actions.

2. Specialists:

Persons working within a juridical person who possess uncommon knowledge essential to the commercial presence's production, research equipment, techniques or management. In assessing such knowledge, account will be taken not only of knowledge specific to the commercial presence, but also of whether the person has a high level of qualification referring to a type of work or trade requiring specific technical knowledge, including membership of an accredited profession;

(b) "graduate trainees" means natural persons of the EC Party or of the Signatory CARIFORUM States who have been employed by a juridical person of that EC Party or Signatory CARIFORUM State for at least one year, possess a university degree and are temporarily transferred to a commercial presence or to the parent company of the juridical person in the territory of the other Party, for career development purposes or to obtain training in business techniques or methods[14];

(c) "business services sellers" means natural persons of the EC Party or of the Signatory CARIFORUM States who are representatives of a service supplier of that EC Party or Signatory CARIFORUM State seeking temporary entry into the territory of the other Party for the purpose of negotiating the sale of services or entering into agreements to sell services for that service supplier. They do not engage in making direct sales to the general public and do not receive remuneration from a source located within the host EC Party or Signatory CARIFORUM State respectively;

(d) "contractual services suppliers" means natural persons of the EC Party or of the Signatory CARIFORUM States employed by a juridical person of that EC Party or Signatory CARIFORUM State which has no commercial presence in the territory of the other Party and which has concluded

14. The recipient commercial presence may be required to submit a training programme covering the duration of the stay for prior approval, demonstrating that the purpose of the stay is for training. For Spain, France, Germany, Austria and Hungary, training must be linked to the university degree which has been obtained.

a bona fide contract (other than through an agency as defined by CPC 872) to supply services with a final consumer in the latter Party requiring the presence on a temporary basis of its employees in that Party in order to fulfil the contract to provide services;

(e) "independent professionals" means natural persons of the EC Party or of the Signatory CARIFORUM States engaged in the supply of a service and established as self-employed in the territory of that EC Party or Signatory CARIFORUM State who have no commercial presence in the territory of the other Party and who have concluded a bona fide contract (other than through an agency as defined by CPC 872) to supply services with a final consumer in the latter Party requiring their presence on a temporary basis in that Party in order to fulfil the contract to provide services[15];

(f) "qualifications" means diplomas, certificates and other evidence (of formal qualification) issued by an authority designated pursuant to legislative, regulatory or administrative provisions and certifying successful completion of professional training.

Article 81

Key personnel and graduate trainees

1. For every sector liberalised in accordance with Chapter 2 of this Title and subject to any reservations listed in Annex IV, the EC Party and the Signatory CARIFORUM States shall allow investors of the other Party to employ in their commercial presences natural persons of that other Party provided that such employees are key personnel or graduate trainees as defined in Article 80. The temporary entry and stay of key personnel and graduate trainees shall be for a period of up to three years for intra-corporate transfers, 90 days in any 12-month period for business visitors, and one year for graduate trainees.

2. For every sector liberalised in accordance with Chapter 2 of this Title, the measures which the EC Party and the Signatory CARIFORUM States shall not maintain or adopt either on the basis of a regional subdivision or on the basis of their entire territory, unless otherwise specified in Annex IV, are defined as limitations on the total number of natural persons that an investor may employ as key personnel and graduate trainees in a specific sector in the form of numerical quotas or a requirement of an economic needs test and as discriminatory limitations.

Article 82

Business services sellers

For every sector liberalised in accordance with Chapters 2 or 3 of this Title and subject to any reservations listed in Annex IV the EC Party and the Signatory CARIFORUM States shall allow the temporary entry and stay of business services sellers for a period of up to 90 days in any 12-month period.

Article 83

Contractual services suppliers and independent professionals

1. The EC Party and the Signatory CARIFORUM States reaffirm their respective obligations arising from their commitments under the GATS as regards the entry and temporary stay of contractual services suppliers and independent professionals.

2. Without prejudice to paragraph 1, the EC Party shall allow the supply of services

15. The service contract referred to under ((d) and ((e) shall comply with the laws, regulations and requirements of the Party or Signatory CARIFORUM States where the contract is executed.

into the territory of its Member States by contractual services suppliers of the CARIFORUM States through presence of natural persons, subject to the conditions specified below and in Annex IV, in the following sub-sectors:

1. legal advisory services in respect of international public law and foreign law (i.e. non-EU law);
2. accounting and bookkeeping services;
3. taxation advisory services;
4. architectural services;
5. urban planning and landscape architecture services;
6. engineering services;
7. integrated engineering services;
8. medical and dental services;
9. veterinary services;
10. midwives services;
11. services provided by nurses, physiotherapists and paramedical personnel;
12. computer and related services;
13. research and development services;
14. advertising services;
15. market research and opinion polling;
16. management consulting services;
17. services related to management consulting;
18. technical testing and analysis services;
19. related scientific and technical consulting services;
20. maintenance and repair of equipment, including transportation equipment, notably in the context of an after-sales or after-lease services contract;
21. chef de cuisine services;
22. fashion model services;
23. translation and interpretation services;
24. site investigation work;
25. higher education services (only privately-funded services);
26. environmental services;
27. travel agencies and tour operators' services;
28. tourist guides services;
29. entertainment services other than audiovisual services.

Without prejudice to paragraph 1, the Signatory CARIFORUM States shall allow the supply of services into their territory by EC contractual services suppliers through presence of natural persons, subject to the conditions specified below and in Annex IV.

The commitments undertaken by the EC Party and by the Signatory CARIFORUM States are subject to the following conditions:

(a) the natural persons must be engaged in the supply of a service on a temporary basis as employees of a juridical person, which has obtained a service contract for a period not exceeding 12 months;

(b) the natural persons entering the other Party must be offering such services as an employee of the juridical person supplying the services for at least the year immediately preceding the date of submission of an application for entry into the other Party. In addition, the natural persons must possess, at the date of submission of an application for entry into the other Party, at least three years professional experience[16] in the sector of activity which is the subject of the contract;

(c) with the exception of fashion model services, chef de cuisine services, and entertainment services other than audiovisual services, the natural persons entering the other Party must possess

16. Obtained after having reached the age of majority.

(i) a university degree or a qualification demonstrating knowledge of an equivalent level[17] and (ii) professional qualifications where this is required to exercise an activity pursuant to the law, regulations or requirements of the EC Party or of the Signatory CARIFORUM State applicable where the service is supplied;

(d) the natural person shall not receive remuneration for the provision of services other than the remuneration paid by the contractual service supplier during its stay in the other Party;

(e) the temporary entry and stay of natural persons within the Party concerned shall be for a cumulative period of not more than six months or, in the case of Luxemburg, 25 weeks, in any 12-month period or for the duration of the contract, whichever is less;

(f) access accorded under the provisions of this Article relates only to the service activity which is the subject of the contract and does not confer entitlement to exercise the professional title of the Party where the service is provided;

(g) the number of persons covered by the service contract shall not be larger than necessary to fulfill the contract, as it may be decided by the laws, regulations and requirements of the Party where the service is supplied;

(h) other discriminatory limitations, including on the number of natural persons in the form of economic needs tests, which are specified in Annex IV.

3. Without prejudice to paragraph 1 the EC Party shall allow the supply of services into the territory of its Member States by independent professionals of the Signatory CARIFORUM States, subject to the conditions specified below and in Annex IV, in the following sub-sectors:

1. legal advisory services in respect of international public law and foreign law (i.e. non-EU law);

2. architectural services;

3. urban planning and landscape architecture services;

4. engineering services;

5. integrated engineering services;

6. computer and related services;

7. research and development services;

8. market research and opinion polling;

9. management consulting services;

10. services related to management consulting;

11. translation and interpretation services.

Without prejudice to paragraph 1, the Signatory CARIFORUM States shall allow the supply of services into their territory by EC independent professionals, subject to the conditions specified below and in Annex IV.

The commitments undertaken by the EC Party and by the Signatory CARIFORUM States are subject to the following conditions:

(a) the natural persons must be engaged in the supply of a service on a temporary basis as self-employed persons established in the other Party and must have obtained a service contract for a period not exceeding 12 months;

(b) the natural persons entering the other Party must possess, at the date of submission of an application for entry into the other Party, at least six years professional experience in the sector of activity which is the subject of the contract;

17. Where the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether this is equivalent to a university degree required in its territory.

(c) the natural persons entering the other Party must possess (i) a university degree or a qualification demonstrating knowledge of an equivalent level[18] and (ii) professional qualifications where this is required to exercise an activity pursuant to the law, regulations or requirements of the EC Party or of the Signatory CARIFORUM State applicable where the service is supplied;

(d) the temporary entry and stay of natural persons within the Party concerned shall be for a cumulative period of not more than six months or, in the case of Luxembourg, 25 weeks, in any 12-month period or for the duration of the contract, whichever is less;

(e) access accorded under the provisions of this Article relates only to the service activity which is the subject of the contract and does not confer entitlement to exercise the professional title of the Party where the service is provided;

(f) other discriminatory limitations, including on the number of natural persons in the form of economic needs tests, which are specified in Annex IV.

Article 84

Short term visitors for business purposes

1. The EC Party and the Signatory CARIFORUM States shall endeavour to facilitate, in conformity with their respective legislation, the entry and temporary stay in their territories of short-term visitors for business purposes from the EC Party or the Signatory CARIFORUM States as the case may be with a view to carrying out the following activities:

(a) research and design: technical, scientific and statistical researchers on behalf of a company established in the territory of the other Party;

(b) marketing research: personnel conducting research or analysis, including market research, on behalf of a company established in the territory of the other Party;

(c) training seminars: personnel of a company in the EC Party or in the Signatory CARIFORUM States who enter the territory of the other Party to receive training in techniques and work practices employed by companies or organisations in that Party, provided that the training received is confined to observation, familiarisation and classroom instruction only;

(d) trade fairs and exhibitions: personnel attending a trade fair for the purpose of promoting their company or its products or services;

(e) sales: sales representatives and agents taking orders or negotiating contracts for goods for a company located in the territory of the other Party, but not delivering goods;

(f) purchasing: buyers purchasing for a company or management and supervisory personnel engaging in a commercial transaction carried out in the territory of the other Party;

(g) tourism personnel (hotel representatives, tour and travel agents, tour guides or tour operators) attending or participating in tourism conventions or tourism exhibitions,

provided that they are not engaged in selling their goods or services to the general public or in supplying their goods or services themselves, do not on their own behalf receive any remuneration from a source located within the EC Party or the

18. Where the degree or qualification has not been obtained in the Party where the service is supplied, that Party may evaluate whether this is equivalent to a university degree required in its territory.

Signatory CARIFORUM State where they are staying temporarily, and are not engaged in the supply of a service in the framework of a contract concluded between a juridical person who has no commercial presence in the EC Party or in the Signatory CARIFORUM State where the short-term visitors for business purposes are staying temporarily and a consumer in the EC Party or Signatory CARIFORUM State.

2. This entry and temporary stay into their territories, when allowed, shall be for a period of up to 90 days in any 12-month period.

CHAPTER 5
Regulatory framework

Section 1
Provisions of general application

Article 85
Mutual recognition

1. Nothing in this Title shall prevent the EC Party and the Signatory CARIFORUM States from requiring that natural persons must possess the necessary qualifications and/or professional experience specified in the territory where the service is supplied, for the sector of activity concerned.

2. The Parties shall encourage the relevant professional bodies in their respective territories to jointly develop and provide recommendations on mutual recognition to the CARIFORUM-EC Trade and Development Committee, for the purpose of the fulfilment, in whole or in part, by investors and service suppliers of the criteria applied by the EC Party and by the Signatory CARIFORUM States for the authorisation, licensing, operation and certification of investors and service suppliers and, in particular, in the professional services sector.

3. In particular, the Parties shall encourage the relevant professional bodies in their respective territories to start negotiations no later than three years after entry into force of this Agreement in order to jointly develop and provide such recommendations on mutual recognition, among others, in the following disciplines: accounting, architecture, engineering and tourism.

4. On receipt of a recommendation referred to in the preceding paragraph, the CARIFORUM-EC Trade and Development Committee shall, within a reasonable time, review the recommendation with a view to determining whether it is consistent with this Agreement.

5. When, in conformity with the procedure set out in paragraph 2, a recommendation referred to in the same paragraph has been found to be consistent with this Agreement and there is a sufficient level of correspondence between the relevant regulations of the Parties and the Signatory CARIFORUM States, the Parties shall, with a view to implementing that recommendation, negotiate, through their competent authorities, an agreement on mutual recognition of requirements, qualifications, licences and other regulations.

6. Any such agreement shall be in conformity with the relevant provisions of the WTO Agreement and, in particular, Article VII of the GATS.

7. The CARIFORUM-EC Trade and Development Committee shall review progress made in mutual recognition every two years.

Article 86
Transparency

Subject to Article 235(3) the Parties and the Signatory CARIFORUM States shall respond promptly to all requests made by the other

Party for specific information on any of their measures of general application or international agreements which pertain to or affect this Agreement. The Parties shall also establish one or more enquiry points to provide, upon request, specific information to investors and services suppliers of the other Party on all such matters. Such enquiry points are listed in Annex V. Enquiry points need not be depositories of laws and regulations.

Article 87
Procedures

1. Where authorisation is required for the supply of a service or commercial presence on which a specific commitment has been made, the competent authorities of the Parties and of the Signatory CARIFORUM States shall, within a reasonable period of time after the submission of an application considered complete under domestic laws and regulations, inform the applicant of the decision concerning the application. At the request of the applicant, the competent authorities of the Parties or of the Signatory CARIFORUM States as the case may be shall provide, without undue delay, information concerning the status of the application.

2. The Parties and the Signatory CARIFORUM States shall maintain or institute judicial, arbitral or administrative tribunals or procedures which provide, at the request of an affected investor or service supplier, for a prompt review of, and where justified, appropriate remedies for, administrative decisions affecting commercial presence, cross border supply of services or temporary presence of natural persons for business purpose. Where such procedures are not independent of the agency entrusted with the administrative decision concerned, the Parties and the Signatory CARIFORUM States shall ensure that the procedures in fact provide for an objective and impartial review.

Section 2
Computer services

Article 88
Understanding on computer services

1. To the extent that trade in computer services is liberalised in accordance with Chapters 2, 3 and 4 of this Title, the EC Party and the Signatory CARIFORUM States subscribe to the understanding defined in paragraphs 2, 3 and 4.

2. CPC 84, the United Nations code used for describing computer and related services, covers the basic functions used to provide all computer and related services: computer programs defined as the sets of instructions required to make computers work and communicate (including their development and implementation), data processing and storage, and related services, such as consultancy and training services for staff of clients. Technological developments have led to the increased offering of these services as a bundle or package of related services that can include some or all of these basic functions. For example, services such as web or domain hosting, data mining services and grid computing each consist of a combination of basic computer services functions.

3. Computer and related services, regardless of whether they are delivered via a network, including the Internet, include all services that provide:

(a) consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, support, technical assistance, or management of or for computers or computer systems; or

(b) computer programs defined as the sets of instructions required to make

computers work and communicate (in and of themselves), plus consulting, strategy, analysis, planning, specification, design, development, installation, implementation, integration, testing, debugging, updating, adaptation, maintenance, support, technical assistance, management or use of or for computer programs; or

(c) data processing, data storage, data hosting or database services; or

(d) maintenance and repair services for office machinery and equipment, including computers; or

(e) training services for staff of clients, related to computer programs, computers or computer systems, and not elsewhere classified.

4. Computer and related services enable the provision of other services (e.g. banking) by both electronic and other means. However, there is an important distinction between the enabling service (e.g. web-hosting or application hosting) and the content or core service that is being delivered electronically (e.g. banking). In such cases, the content or core service is not covered by CPC 84.

Section 3

Courier services

Article 89

Scope and definitions

1. This Section sets out the principles of the regulatory framework for all courier services liberalised in accordance with Chapters 2, 3 and 4 of this Title.

2. For the purpose of this Section and of Chapters 2, 3 and 4 of this Title:

(a) universal service means the permanent provision of a postal service of specified quality at all points in the territory of the EC Party and of the Signatory CARIFORUM States at affordable prices for all users;

(b) an "individual licence" means an authorisation, granted to an individual supplier by a regulatory authority, which is required before supplying a given service.

Article 90

Prevention of anti-competitive practices in the courier sector

In accordance with the provisions of Chapter 1 of Title IV, appropriate measures shall be maintained or introduced by the EC Party or the Signatory CARIFORUM States for the purpose of preventing suppliers who, alone or together, have the ability to affect materially the terms of participation (having regard to price and supply) in the relevant market for courier services as a result of use of their position in the market, from engaging in or continuing anti-competitive practices.

Article 91

Universal service

The EC Party or any Signatory CARIFORUM State has the right to define the kind of universal service obligation they wish to maintain. Such obligations will not be regarded as anti-competitive per se, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service as defined by the EC Party and the Signatory CARIFORUM States.

Article 92

Individual licences

1. An individual licence may only be required for services which are within the scope of the universal service.

2. Where an individual licence is required, the following shall be made publicly available:

(a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence, and

(b) the terms and conditions of individual licences.

3. The reasons for the denial of an individual licence shall be made known to the applicant upon request and an appeal procedure through an independent body will be established at the level of the EC Party and of the Signatory CARIFORUM States. Such a procedure will be transparent, non-discriminatory, and based on objective criteria.

Article 93

Independence of the regulatory bodies

The regulatory bodies shall be legally separate from, and not accountable to, any supplier of courier services. The decisions of and the procedures used by the regulatory bodies shall be impartial with respect to all market participants.

Section 4

Telecommunications services

Article 94

Definitions and scope

1. For the purpose of this Title:

(a) "telecommunications services" means all services consisting of the transmission and reception of electro-magnetic signals and do not cover the economic activity consisting of the provision of content which requires telecommunications for its transport;

(b) a "regulatory authority" in the telecommunications sector means the body or bodies charged with the regulation of telecommunications mentioned in this Chapter;

(c) "essential telecommunications facilities" mean facilities of a public telecommunications transport network and service that:

(i) are exclusively or predominantly provided by a single or limited number of suppliers; and

(ii) cannot feasibly be economically or technically substituted in order to provide a service;

(d) a "major supplier" in the telecommunications sector is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for telecommunications services as a result of control over essential facilities or the use of its position in the market;

(e) "interconnection" means linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier;

(f) "universal service" means the set of services of specified quality that must be made available to all users in the territory of the EC Party and of the Signatory CARIFORUM States regardless of their geographical location and at an affordable price; its scope and implementation are decided by the EC Party and by the Signatory CARIFORUM States.

2. This Section sets out the principles of the regulatory framework for the following telecommunications services, other than broadcasting, liberalised pursuant to Chapters 2, 3 and 4 of this Title: voice telephone services, packet-switched data

transmission services, circuit-switched data transmission services, telex services, telegraph services, facsimile services, private leased circuit services and mobile and personal communications services and systems.

Article 95

Regulatory authority

1. Regulatory authorities for telecommunications services shall be legally distinct and functionally independent from any supplier of telecommunications services.

2. The regulatory authority shall be sufficiently empowered to regulate the sector. The tasks to be undertaken by a regulatory authority shall be made public in an easily accessible and clear form, in particular where those tasks are assigned to more than one body.

3. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

4. A supplier affected by the decision of a regulatory authority shall have a right to appeal against that decision to an appeal body that is independent of the parties involved. Where the appeal body is not judicial in character, written reasons for its decision shall always be given and its decisions shall also be subject to review by an impartial and independent judicial authority. Decisions taken by appeal bodies shall be effectively enforced.

Article 96

Authorisation to provide telecommunications services

1. Provision of services shall, as much as possible, be authorised following mere notification.

2. A licence can be required to address issues of attributions of numbers and frequencies. The terms and conditions for such licences shall be made publicly available.

3. Where a licence is required:

(a) all the licensing criteria and a reasonable period of time normally required to reach a decision concerning an application for a licence shall be made publicly available;

(b) the reasons for the denial of a licence shall be made known in writing to the applicant upon request;

(c) the applicant of a licence shall be able to seek recourse before an appeal body in case a licence is unduly denied;

(d) licence fees required by the EC Party or by the Signatory CARIFORUM States for granting a licence shall not exceed the administrative costs normally incurred in the management, control and enforcement of the applicable licences.

Article 97

Competitive safeguards on major suppliers

In accordance with the provisions of Chapter 1 of Title IV, appropriate measures shall be maintained or introduced by the EC Party or the Signatory CARIFORUM States for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices. These anti-competitive practices shall include in particular:

(a) engaging in anti-competitive cross-subsidisation;

(b) using information obtained from competitors with anti-competitive results; and

(c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

Article 98

Interconnection

1. Any supplier authorised to provide telecommunications services shall have the right to negotiate interconnection with other providers of publicly available telecommunications networks and services. Interconnection should in principle be agreed on the basis of commercial negotiation between the companies concerned.

2. Regulatory authorities shall ensure that suppliers that acquire information from another undertaking during the process of negotiating interconnection arrangements use that information solely for the purpose for which it was supplied and respect at all times the confidentiality of information transmitted or stored.

3. Interconnection with a major supplier shall be ensured at any technically feasible point in the network. Such interconnection shall be provided:

(a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;

(b) in a timely fashion, on terms, conditions (including technical standards and specifications) and rates[19] that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and

(c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

4. The procedures applicable for interconnection to a major supplier shall be made publicly available.

5. Major suppliers shall make publicly available either their interconnection agreements or their reference interconnection offers.

6. A service supplier requesting interconnection with a major supplier shall have recourse, either at any time or after a reasonable period of time which has been made publicly known, to an independent domestic body, which may be a regulatory body as referred to in Article 95, to resolve disputes regarding appropriate terms, conditions and rates for interconnection.

Article 99

Scarce resources

Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, shall be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands shall be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.

Article 100

Universal service

1. The EC Party or any Signatory CARIFORUM State has the right to define the kind of universal service obligations they wish to maintain.

19. Such rates are cost-oriented rates in the EC Party, and cost-based rates in Signatory CARIFORUM States.

2. Such obligations will not be regarded as anti-competitive per se, provided they are administered in a transparent, objective and non-discriminatory way. The administration of such obligations shall also be neutral with respect to competition and not more burdensome than necessary for the kind of universal service defined by the EC Party and by the Signatory CARIFORUM States.

3. All suppliers should be eligible to ensure universal service. The designation shall be made through an efficient, transparent and non-discriminatory mechanism. Where necessary, the EC Party and the Signatory CARIFORUM States shall assess whether the provision of universal service represents an unfair burden on organisations(s) designated to provide universal service. Where justified on the basis of such calculation, and taking into account the market benefit, if any, which accrues to an organisation that offers universal service, national regulatory authorities shall determine whether a mechanism is required to compensate the supplier(s) concerned or to share the net cost of universal service obligations.

4. The EC Party and the Signatory CARIFORUM States shall ensure that:

(a) directories of all subscribers are available to users in a form approved by the national regulatory authority, whether printed or electronic, or both, and are updated on a regular basis, and at least once a year;

(b) organisations that provide the services referred to in subparagraph (a) apply the principle of non-discrimination to the treatment of information that has been provided to them by other organisations.

Article 101

Confidentiality of information

The EC Party and the Signatory CARIFORUM States shall ensure the confidentiality of telecommunications and related traffic data by means of a public telecommunication network and publicly available telecommunications services, without restricting trade in services.

Article 102

Disputes between suppliers

1. In the event of a dispute arising between suppliers of telecommunications networks or services in connection with rights and obligations that arise from this Chapter, the national regulatory authority concerned shall, at the request of either party to the dispute, issue a binding decision to resolve the dispute in the shortest possible timeframe.

2. When such a dispute concerns the cross-border provision of services, the national regulatory authorities concerned shall coordinate their efforts in order to bring about a resolution of the dispute.

Section 5

Financial services

Article 103

Scope and definitions

1. This Section sets out the principles of the regulatory framework for all financial services liberalised pursuant to Chapters 2, 3 and 4 of this Title.

2. For the purpose of this Chapter and of Chapters 2, 3 and 4 of this Title:

(a) "financial service" means any service of a financial nature offered by a financial service supplier of the EC Party and of the Signatory CARIFORUM States. Financial services comprise the following activities:

A. Insurance and insurance-related services

1. direct insurance (including co-insurance):

(i) life;
(ii) non-life;

2. reinsurance and retrocession;

3. insurance inter-mediation, such as brokerage and agency; and

4. services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.

B. Banking and other financial services (excluding insurance):

1. acceptance of deposits and other repayable funds from the public;

2. ending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;

3. financial leasing;

4. all payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;

5. guarantees and commitments;

6. trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:

(i) money market instruments (including cheques, bills, certificates of deposits);

(ii) foreign exchange;

(iii) derivative products including, but not limited to, futures and options;

(iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;

(v) transferable securities;

(vi) other negotiable instruments and financial assets, including bullion;

7. participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;

8. money broking;

9. asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;

10. settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;

11. provision and transfer of financial information, and financial data processing and related software;

12. advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (1) through (11), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy;

(b) "financial service supplier" means any natural or juridical person of the EC Party or of the Signatory CARIFORUM States which seeks to provide or provides financial services. The term "financial service supplier" does not include a public entity;

(c) "public entity" means:

1. a government, a central bank or a monetary authority, of the EC Party or of a Signatory CARIFORUM State, or an entity owned or controlled by the EC Party or by a Signatory CARIFORUM State, that is principally engaged in carrying out governmental functions or activities for governmental purposes, not including an entity principally engaged in supplying financial services on commercial terms; or

2. a private entity, performing functions normally performed by a central bank

or monetary authority, when exercising those functions;

(d) "new financial service" means a service of a financial nature, including services related to existing and new products or the manner in which a product is delivered, that is not supplied by any financial service supplier in the territory of the EC Party or of the Signatory CARIFORUM States but which is supplied in the territory of the other Party.

Article 104

Prudential carve-out

1. The EC Party and the Signatory CARIFORUM States may adopt or maintain measures for prudential reasons, such as:

(a) the protection of investors, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier;

(b) ensuring the integrity and stability of their financial system.

2. Nothing in this Agreement shall be construed to require the EC Party or the Signatory CARIFORUM States to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

Article 105

Effective and transparent regulation

1. The Parties and the Signatory CARIFORUM States shall endeavour to provide in advance to all interested persons any measure of general application that the EC Party or the Signatory CARIFORUM States propose to adopt in order to allow an opportunity for such persons to comment on the measure. Such measure shall be provided:

(a) by means of an official publication; or

(b) in other written or electronic form.

2. The EC Party and the Signatory CARIFORUM States shall make available to interested persons their requirements for completing applications relating to the supply of financial services.

On the request of an applicant, the concerned EC Party or Signatory CARIFORUM State shall inform the applicant of the status of its application. If the concerned EC Party or Signatory CARIFORUM State requires additional information from the applicant, it shall notify the applicant without undue delay.

The EC Party and the Signatory CARIFORUM States shall endeavour to facilitate the implementation and application in their territory of internationally agreed standards for regulation and supervision in the financial services sector.

Article 106

New financial services[20]

The EC Party and the Signatory CARIFORUM States shall permit a financial service supplier of the other Party to provide any new financial service of a type similar to those services that the EC Party and the Signatory CARIFORUM States permit their own financial service suppliers to provide under their domestic law in like circumstances. The EC Party and the Signatory CARIFORUM States may determine the juridical form through which the service may be provided and may require authorisation for the provision of the service. Where such authorisation is required, a decision shall be made within a reasonable time and the authorisation may only be refused for prudential reasons.

20. This Article applies only to financial services activities covered by Article 103 and liberalised according to this Title.

Article 107

Data processing

1. The EC Party and the Signatory CARIFORUM States shall permit a financial service supplier of the other Party to transfer information in electronic or other form, into and out of their territory, for data processing where such processing is required in the ordinary course of business of such financial service supplier.

2. The EC Party and the Signatory CARIFORUM States shall adopt adequate safeguards to the protection of privacy and fundamental rights, and freedom of individuals, in particular with regard to the transfer of personal data.

Article 108

Specific exceptions

1. Nothing in this Title shall be construed to prevent the EC Party and the Signatory CARIFORUM States, including their public entities, from exclusively conducting or providing in their territory activities or services forming part of a public retirement plan or statutory system of social security, except when those activities may be carried out, as provided by the domestic regulation of the EC Party or the Signatory CARIFORUM State concerned, by financial service suppliers in competition with public entities or private institutions.

2. Nothing in this Agreement applies to activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies.

3. Nothing in this Title shall be construed to prevent the EC Party and the Signatory CARIFORUM States, including their public entities, from exclusively conducting or providing in their territory activities or services for the account or with the guarantee or using the financial resources of the EC Party or the Signatory CARIFORUM State, or their public entities.

Section 6

International maritime transport services

Article 109

Scope, definitions and principles

1. This Section sets out the principles regarding the liberalisation of international maritime transport services pursuant to Chapters 2, 3 and 4 of this Title.

2. For the purpose of this Section and Chapters 2, 3 and 4 of this Title:

(a) "international maritime transport" includes door to door and multi-modal transport operations, which is the carriage of goods using more than one mode of transport, involving a sea-leg, under a single transport document, and to this effect includes the right to directly contract with providers of other modes of transport;

(b) "maritime cargo handling services" means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of:

(i) the loading/discharging of cargo to/ from a ship;

(ii) the lashing/unlashing of cargo;

(iii) the reception/delivery and safekeeping of cargoes before shipment or after discharge;

(c) "customs clearance services" (alternatively "customs house brokers"

services') means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity;

(d) "container station and depot services" means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments;

(e) "maritime agency services" means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

(i) marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;

(ii) acting on behalf of the companies organising the call of the ship or taking over cargoes when required;

(f) "freight forwarding services" means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information.

3. In view of the existing levels of liberalisation between the Parties in international maritime transport:

(a) The EC Party and the Signatory CARIFORUM States shall apply effectively the principle of unrestricted access to the international maritime markets and trades on a commercial and non-discriminatory basis;

(b) The EC Party and the Signatory CARIFORUM States shall grant to ships flying the flag of the other Party or of any Signatory CARIFORUM State or operated by service suppliers of the other Party treatment no less favourable than that accorded to their own ships with regard to, inter alia, access to ports, use of infrastructure and auxiliary maritime services of the ports, as well as related fees and charges, customs facilities and the assignment of berths and facilities for loading and unloading.

4. In applying these principles, the EC Party and the Signatory CARIFORUM States shall:

(a) not introduce cargo-sharing arrangements in future bilateral agreements with third countries concerning maritime transport services, including dry and liquid bulk and liner trade, and terminate, within a reasonable period of time, such cargo-sharing arrangements in case they exist in previous bilateral agreements; and

(b) upon the entry into force of this Agreement, abolish and abstain from introducing any unilateral measures and administrative, technical and other obstacles which could constitute a disguised restriction or have discriminatory effects on the free supply of services in international maritime transport.

5. The EC Party and the Signatory CARIFORUM States shall permit international maritime service suppliers of the other Party to have a commercial presence in their territory under conditions of establishment and operation no less favourable than those accorded to their own service suppliers or those of any third country, whichever are the better.

6. The EC Party and the Signatory CARIFORUM States shall make available to international maritime transport suppliers of the other Party on reasonable and non discriminatory terms and conditions the following services at the port: pilotage, towing and tug assistance, provisioning, fuelling and watering, garbage collecting and ballast waste disposal, port captain's services, navigation aids, shore-based operational services essential to ship operations, including communications, water and electrical supplies, emergency repair facilities, anchorage, berth and berthing services.

Section 7
Tourism services

Article 110
Scope

This Section sets out the principles of the regulatory framework for all tourism services liberalised in accordance with Chapters 2, 3 and 4 of this Title.

Article 111
Prevention of anticompetitive practices

In accordance with the provisions of Chapter 1 of Title IV, appropriate measures shall be maintained or introduced by the EC Party or the Signatory CARIFORUM States for the purpose of preventing suppliers, in particular in the context of tourism distribution networks[21], to affect materially the terms of participation in the relevant market for tourism services by engaging in or continuing anti-competitive practices, including, inter alia, abuse of dominant position through imposition of unfair prices, exclusivity clauses, refusal to deal, tied sales, quantity restrictions or vertical integration.

Article 112
Access to technology

The EC Party and the Signatory CARIFORUM States shall endeavour to facilitate the transfer of technology on a commercial basis to commercial presences in the Signatory CARIFORUM States.

Article 113
Small- and medium-sized enterprises

The EC Party and the Signatory CARIFORUM States shall endeavour to facilitate the participation of small- and medium-sized enterprises in the tourism services sector.

Article 114
Mutual recognition

The Parties shall cooperate towards the mutual recognition of requirements, qualifications, licenses or other regulations in accordance with Article 85.

Article 115
Increasing the impact of tourism on sustainable development

The Parties shall encourage the participation of CARIFORUM services suppliers in international, regional, sub-regional, bilateral and private financing programs to support the sustainable development of tourism.

Article 116
Environmental and quality standards

The Parties and the Signatory CARIFORUM States shall encourage compliance with environmental and quality standards applicable to tourism services in a reasonable and objective manner, without

21. For the purpose of this Section, tourism distribution networks means tour operators and other tourism wholesalers (both out-bound and in-bound), computer reservation systems and global distribution systems (whether or not connected to airlines or provided through the Internet), travel agencies and other distributors of tourism services.

constituting unnecessary barriers to trade, and shall endeavour to facilitate the participation of the Signatory CARIFORUM States in relevant international organisations setting environmental and quality standards applicable to tourism services.

Article 117

Development cooperation and technical assistance

1. The Parties shall cooperate for the advancement of the tourism sector in the Signatory CARIFORUM States, given the inherent asymmetries in respective levels of development of the Parties.

2. Subject to the provisions of Article 7, the Parties agree to cooperate, including by facilitating support in the following areas:

(a) The upgrading of national accounting systems with a view to facilitating the introduction of Tourism Satellite Accounts (TSA) at the regional and local level;

(b) Capacity building for environmental management in tourism areas at the regional and local level;

(c) The development of Internet marketing strategies for small and medium-sized tourism enterprises in the tourism services sector;

(d) Mechanisms to ensure the effective participation of Signatory CARIFORUM States in international standard setting bodies focused on sustainable tourism standards development; programmes to achieve and ensure equivalency between national/ regional and international standards for sustainable tourism; and programmes aimed at increasing the level of compliance with sustainable tourism standards by regional tourism services suppliers;

(e) Tourism exchange programs and training, including language training, for tourism services providers.

Article 118

Exchange of information and consultation

1. The Parties agree to exchange experiences, information and best practices and to consult on issues covered by this section and relevant to trade between the Parties. The CARIFORUM-EC Trade and Development Committee shall develop modalities for this regular dialogue on the issues covered by this Section.

2. The Parties shall invite private and other relevant stakeholders to this dialogue, where relevant and agreed by them.

3. The Parties agree further that regular dialogue would be useful on the issuance of travel advisories.

CHAPTER 6
Electronic commerce

Article 119

Objective and principles

1. The Parties, recognising that electronic commerce increases trade opportunities in many sectors, agree to promote the development of electronic commerce between them, in particular by cooperating on the issues raised by electronic commerce under the provisions of this Title.

2. The Parties agree that the development of electronic commerce must be fully compatible with the highest international standards of data protection, in order to ensure the confidence of users of electronic commerce.

3. The Parties agree that deliveries by electronic means shall be considered as the provision of services, within the meaning of Chapter 3 of this Title, which cannot be subject to customs duties.

Article 120

Regulatory aspects of e-commerce

1. The Parties shall maintain a dialogue on regulatory issues raised by electronic commerce, which will, inter alia, address the following issues:

(a) the recognition of certificates of electronic signatures issued to the public and the facilitation of cross-border certification services;

(b) the liability of intermediary service providers with respect to the transmission, or storage of information;

(c) the treatment of unsolicited electronic commercial communications;

(d) the protection of consumers in the ambit of electronic commerce;

(e) any other issue relevant for the development of electronic commerce.

2. Such cooperation can take the form of exchange of information on the respective legislation of the Parties and the Signatory CARIFORUM States on these issues as well as on the implementation of such legislation.

CHAPTER 7
Cooperation

Article 121

Cooperation

1. The Parties recognise the importance of technical cooperation and assistance in order to complement the liberalisation of services and investment, support the Signatory CARIFORUM States' efforts to strengthen their capacity in the supply of services, facilitate the implementation of commitments under this Title, and achieve the objectives of this Agreement.

2. Subject to the provisions of Article 7, the Parties agree to cooperate, including by providing support for technical assistance, training and capacity building in, inter alia, the following areas:

(a) Improving the ability of service suppliers of the Signatory CARIFORUM States to gather information on and to meet regulations and standards of the EC Party at European Community, national and sub-national levels;

(b) Improving the export capacity of service suppliers of the Signatory CARIFORUM States, with particular attention to the marketing of tourism and cultural services, the needs of small and medium-sized enterprises, franchising and the negotiation of mutual recognition agreements;

(c) Facilitating interaction and dialogue between service suppliers of the EC Party and of the Signatory CARIFORUM States;

(d) Addressing quality and standards needs in those sectors where the Signatory CARIFORUM States have undertaken commitments under this Agreement and with respect to their domestic and regional markets as well as trade between the Parties, and in order to ensure participation in the development and adoption of sustainable tourism standards;

(e) Developing and implementing regulatory regimes for specific service sectors at CARIFORUM regional level and in Signatory CARIFORUM States in those sectors where they have undertaken commitments under this Agreement; and

(f) Establishing mechanisms for promoting investment and joint ventures between service suppliers of the EC Party and of the Signatory CARIFORUM States, and enhancing the capacities of investment promotion agencies in Signatory CARIFORUM States.

Annex 2

CARIFORUM-EU ECONOMIC PARTNERSHIP AGREEMENT

PROTOCOL III
on cultural cooperation

THE PARTIES AND THE SIGNATORY CARIFORUM STATES,

Having ratified the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions adopted in Paris on 20 October 2005, which entered into force on 18 March 2007, or intending to do so promptly;

Intending to effectively implement the UNESCO Convention and to cooperate within the framework of its implementation, building upon the principles of the Convention and developing actions in line with its provisions, notably its Articles 14, 15 and 16;

Recognising the importance of the cultural industries and the multi-faceted nature of cultural goods and services as activities of cultural, economic and social value;

Recognising that the regional integration process supported by this Agreement forms part of a global strategy aimed at promoting equitable growth and the reinforcement of economic, trade and cultural cooperation between the Parties;

Recalling that the objectives of this Protocol are complemented and supported by existing and future policy instruments managed in other frameworks, with a view to:

(a) integrating the cultural dimension at all levels of development cooperation and, in particular, in the field of education;

(b) reinforcing the capacities and independence of the Parties' cultural industries;

(c) promoting local and regional cultural content;

Recognising that protecting and promoting cultural diversity is a condition for a successful dialogue between cultures;

Recognising, protecting and promoting cultural heritage, as well as promoting its recognition by local populations and recognising its value as a means for expressing cultural identities;

Stressing the importance of facilitating cultural cooperation between the Parties and for that purpose to take into account, on a case by case basis, inter alia, the degree of development of their cultural industries, the level and structural imbalances of cultural exchanges and the existence of preferential schemes for the promotion of local and regional cultural content,

AGREE AS FOLLOWS:

Article 1

Scope, objectives and definitions

1. Without prejudice to the other provisions of this Agreement, this Protocol sets up the framework within which the Parties shall cooperate for facilitating exchanges of cultural activities, goods and services, including inter alia, in the audiovisual sector.

2. While preserving and further developing their capacity to elaborate and implement their cultural policies, with a view to protecting and promoting cultural diversity, the Parties shall collaborate with the aim of improving the conditions governing their exchanges of cultural activities, goods and services and redressing the structural imbalances and asymmetrical patterns which may exist in such exchanges.

3. The definitions and concepts used in this Protocol are those of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions adopted in Paris on20 October 2005.

4. In addition, for the purpose of this Protocol, 'artists and other cultural professionals and practitioners' mean natural persons that perform cultural activities, produce cultural goods or participate in the direct supply of cultural services.

SECTION 1

Horizontal provisions

Article 2

Cultural exchanges and dialogue

1. The Parties shall aim at fostering their capacities to determine and develop their cultural policies, developing their cultural industries and enhancing exchange opportunities for cultural goods and services of the Parties, including through preferential treatment.

2. The Parties shall cooperate to foster the development of a common understanding and enhanced exchange of information on cultural and audiovisual matters through an EC-CARIFORUM dialogue, as well as on good practices in the field of Intellectual Property Rights protection. This dialogue will take place within the mechanisms established in this Agreement as well as in other relevant fora as and when appropriate.

Article 3

Artists and other cultural professionals and practitioners

1. The Parties and the Signatory CARIFORUM States shall endeavour to facilitate, in conformity with their respective legislation, the entry into and temporary stay in their territories of artists and other cultural professionals and practitioners from the other Party, or, as the case may be, the Signatory CARIFORUM States, who cannot avail themselves of commitments undertaken on the basis of Title II of the Agreement and who are either:

(a) artists, actors, technicians and other cultural professionals and practitioners from the other Party involved in the shooting of cinematographic films or television programmes, or

(b) artists and other cultural professionals and practitioners such as visual, plastic and performing artists and instructors, composers, authors, providers of entertainment services and other similar professionals and practitioners from the other Party involved in cultural activities such as, for example, the recording of music or contributing an active part to cultural events such as literary fairs, festivals, among other activities,

provided that they are not engaged in selling their services to the general public or in supplying their services themselves, do not on their own behalf receive any remuneration from a source located within the Party where they are staying temporarily, and are not engaged in the supply of a service in the framework of a contract concluded between a legal person who has no commercial presence in the Party where the artist or other cultural professional or practitioner is staying temporarily and a consumer in this Party.

2. This entry into and temporary stay in the territories of the EC Party or of the Signatory CARIFORUM States, when allowed, shall be for a period of up to 90 days in any 12-month period.

3. The Parties and the Signatory CARIFORUM States shall endeavour to facilitate, in conformity with their respective legislation, the training of, and increased contacts between artists and other cultural professionals and practitioners such as:

(a) Theatrical producers, singer groups, band and orchestra members;

(b) Authors, poets, composers, sculptors, entertainers and other individual artists;

(c) Artists and other cultural professionals and practitioners participating in the direct supply of circus, amusement park and similar attraction services, as well as in festivals and carnivals;

(d) Artists and other cultural professionals and practitioners participating in the direct supply of ballroom, discotheque services and dance instructors;

(e) Mas performers and designers.

Article 4

Technical assistance

1. The Parties shall endeavour to provide technical assistance to Signatory CARIFORUM States with the aim of assisting in the development of their cultural industries, development and implementation of cultural policies, and in promoting the production and exchange of cultural goods and services.

2. Subject to the provisions of Article 7 of the Agreement, the Parties agree to cooperate, including by facilitating support, through different measures, inter alia, training, exchange of information, expertise and experiences, and counselling in elaboration of policies and legislation as well as in usage and transfer of technologies and know-how. Technical assistance may also facilitate the cooperation between private companies, non-governmental organisations as well as public-private partnerships.

SECTION 2

Sectoral provisions

Article 5

Audio-visual, including cinematographic, cooperation

1. The Parties shall encourage the negotiation of new and implementation of existing co-production agreements between one or several Member States

of the European Union and one or several Signatory CARIFORUM States.

2. The Parties and the Signatory CARIFORUM States, in conformity with their respective legislation, shall facilitate the access of co-productions between one or several producers of the EC Party and one or several producers of Signatory CARIFORUM States to their respective markets, including through the granting of preferential treatment, and subject to the provisions of Article 7 of this Agreement, including by facilitating support through the organisation of festivals, seminars and similar initiatives.

(a) Co-produced audiovisual works shall benefit from the preferential market access referred to in paragraph 2 within the EC Party in the form of qualification as European works in accordance with Article 1(n)(i) of Directive 89/552/ EEC[1] for the purposes of the requirements for the promotion of audiovisual works as provided for by Articles 3i(1) and 4(1) of that Directive. Such preferential treatment shall be granted on the following conditions:

— the co-produced audiovisual works are realised between undertakings which are owned and continue to be owned, whether directly or by majority participation, by a Member State of the European Union or a Signatory CARIFORUM State and/ or by nationals of a Member State of the European Union or nationals of a Signatory CARIFORUM State;

— the representative director(s) or manager(s) of the co-producing undertakings have the nationality of a Member State of the European Union and/or of a Signatory CARIFORUM State;

— both (a) the total financial contributions of one or several producers of the EC Party (taken together), and (b) the total financial contributions of one or several producers of Signatory CARIFORUM States (taken together) shall not be less than 20 % and not more than 80 % of the total production cost.

(b) The Parties will regularly monitor the implementation of paragraph (a) and report any problem that may arise in this respect to the CARIFORUM-EC Trade and Development Committee established under this Agreement.

(c) Where preferential schemes for the promotion of local or regional cultural content are established by one or more Signatory CARIFORUM States, the Signatory CARIFORUM States concerned will extend to the works co-produced between producers of the EC party and of Signatory CARIFORUM States the preferential market access benefits of such schemes under the conditions laid down in paragraph (a).

3. The Parties and the Signatory CARIFORUM States reaffirm their commitment to the use of international and regional standards in order to ensure compatibility and interoperability of audio-visual technologies, contributing therefore to strengthen cultural exchanges. They shall cooperate towards this objective.

4. The Parties and the Signatory CARIFORUM States shall endeavour to

1. Directive 89/552/EEC of the European Parliament and of the Council of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directiv(e) (OJ L 298,17.10.1989, p.23). Directive as last amended by Directive 2007/65/EC (OJ L 332, 18.12.2007, p. 27).

facilitate rental and leasing of the technical material and equipment necessary such as radio and television equipment, musical instruments and studio recording equipment to create and record audio-visual works.

5. The Parties and the Signatory CARIFORUM States shall endeavour to facilitate the digitalisation of audio-visual archives in Signatory CARIFORUM States.

Article 6

Temporary importation of material and equipment for the purpose of shooting cinematographic films and television programmes

1. Each Party shall encourage as appropriate the promotion of its territory as a location for the purpose of shooting cinematographic films and television programmes.

2. Notwithstanding the provisions contained in Title I of the Agreement, the Parties and the Signatory CARIFORUM States shall, in conformity with their respective legislation, consider and allow the temporary importation, from the territory of one Party into the territory of the other Party, of the technical material and equipment necessary to carry out the shooting of cinematographic films and television programmes by cultural professionals and practitioners.

Article 7

Performing arts

1. Subject to the provisions of Article 7 of this Agreement, the Parties agree to cooperate, in conformity with their respective legislation, including by facilitating increased contacts between practitioners of performing arts in areas such as professional exchanges and training, inter alia participation in auditions, development of networks and promotion of networking.

2. The Parties and the Signatory CARIFORUM States shall encourage joint productions in the fields of performing arts between producers of one or several Member States of the European Union and one or several Signatory CARIFORUM States.

3. The Parties and the Signatory CARIFORUM States shall encourage the development of international theatre technology standards and the use of theatre stage signs, including through appropriate standardisation bodies. They shall facilitate cooperation towards this objective.

Article 8

Publications

Subject to the provisions of Article 7 of this Agreement, the Parties agree to cooperate, in conformity with their respective legislation, including by facilitating exchange with and dissemination of publications of the other Party in areas such as:

(a) organisation of fairs, seminars, literary events and other similar events related to publications, including public reading mobile structures;

(b) facilitating co-publishing and translations;

(c) facilitating professional exchanges and training for librarians, writers, translators, booksellers and publishers.

Article 9

Protection of sites and historic monuments

Subject to the provisions of Article 7 of this Agreement, the Parties agree to cooperate, including by facilitating support

to encourage exchanges of expertise and best practices regarding the protection of sites and historic monuments, bearing in mind the UNESCO World Heritage mission, including through facilitating the exchange of experts, collaboration on professional training, increasing awareness of the local public and counselling on the protection of the historic monuments, protected spaces, as well as on the legislation and implementation of measures related to heritage, in particular its integration into local life. Such cooperation shall conform with the respective legislation of the Parties and the Signatory CARIFORUM States and is without prejudice to the reservations included in their commitments contained in Annex IV of this Agreement.