

COMMONWEALTH OF DOMINICA

ARRANGEMENT OF SECTIONS

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SCHEDULE.

1998

CARIBBEAN COMMUNITY AND
COMMON MARKET

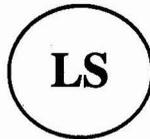
ACT 3

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COMMONWEALTH OF DOMINICA

ACT No. 3 of 1998

I assent



C.A. SORHAINDO
President.

22nd April, 1998.

**AN ACT TO IMPLEMENT THE TREATY OF
CHAGUARAMAS.**

(Gazetted 30th April, 1998)

BE IT ENACTED by the Parliament of the Commonwealth of
Dominica as follows:

Short title.

1. This Act may be cited as the –
CARIBBEAN COMMUNITY AND
COMMON MARKET ACT 1998.

Interpretation.

2. (1) In this Act –

“the Annex” means the Annex expressed in the Treaty to form an integral part thereof and relating to the Caribbean Common Market;

“Common Market area” and “Common Market origin” have the meanings assigned to them, respectively, by section 3;

“Common Market rate of duty” means a rate of customs duty which is applicable to goods by reason of their being of Common Market origin and includes an exemption which is so applicable from any customs duty;

“competent authority” means the Minister;

“Comptroller” means the Comptroller of Customs appointed by the President under section 86 of the Constitution;

“country” includes territory;

“customs duty” includes any corresponding duty in any part of the Common Market area;

“Minister” means the Minister responsible for CARICOM Affairs;

S.I. 1978
No. 1027 (U.K).

Ch. 69:01.

“officer” has the meaning assigned to it in section 2 of the Customs (Control and Management) Act;

“Treaty” means the Treaty opened for signature on the 4th July, 1973, for the establishment of the Caribbean Community and Caribbean Common Market.

Ch. 69:01.

(2) The expression “customs laws” in the Customs (Control and Management) Act shall include all the provisions of this Act.

Common Market
area and origin.

3. (1) For the purposes of this Act, or any enactment relating to duties of customs, and of any instrument having effect under such an enactment, “Common Market area” means, subject to the provisions of this section, Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Surinam, Trinidad and Tobago; and in this Act “Common Market origin” means (subject as may be provided by any regulations made pursuant to

subsection (2) of section 6, in relation to any goods, that they were grown, produced or manufactured in, and consigned from a place in, the Common Market area.

(2) If the Minister, by Order, declares that any country specified in the Order, and not named in subsection (1), is included in the area of the Caribbean Common Market, that country shall be deemed to be named in that subsection.

(3) If the Minister, by Order, declares that any country named in subsection (1) has ceased to be included in the area of the Caribbean Common Market, that country shall be deemed no longer to be named in that subsection.

(4) Any Order made pursuant to this section shall be subject to negative resolution of the House.

4. (1) In considering what import or export duty (if any) ought to be imposed or charged on goods of any description, the competent authority shall take account of the Annex.

Effect of Annex
on import duties.

(2) Where it appears to the competent authority expedient with a view to implementing any of the provisions of the Annex, an order or resolution made or passed pursuant to the provisions of the Customs (Control and Management) Act, and imposing, varying or revoking import or export duties or providing exemption therefrom, may differentiate between the goods of different countries, and may do so subject or not to conditions as to the place from which the goods are consigned to Dominica.

Ch. 69:01.

5. Forms prescribed by the Comptroller pursuant to section 26 of the Customs (Control and Management) Act and published in the *Gazette* at any time before or after the passing of this Act, may be required to be used for the purpose of the customs laws notwithstanding that the period of time specified in section 26 aforesaid has not elapsed.

Customs forms.

Ch. 69:01.

6. (1) The power to make regulations contained in section 23 of the Customs (Control and Management) Act shall be deemed to

Regulations.

Ch. 69:01.

include power to make Regulations for the purpose of making such provisions as appears to the Minister to be expedient for the purpose of implementing provisions of the Annex.

(2) Without prejudice to the generality of subsection (1), such Regulations as aforesaid may make provision –

- (a) as to the cases in which, in determining eligibility for any Common Market rate of duty, goods are or are not to be treated as of Common Market origin, as to the time by reference to which, in determining eligibility as aforesaid, the question whether goods are to be so treated is to be decided, and as to the evidence which is required or is to be sufficient for the purpose of showing that goods are or are not to be so treated; and
- (b) for determining in what cases produce of the sea or goods produced or manufactured therefrom at sea, are to be treated as of Common Market origin.

(3) Subject to the provisions of any such Regulations, where in connection with eligibility for a Common Market rate of duty any question arises whether goods are of Common Market origin, the Comptroller may require the importer of the goods to furnish to him, in such form as he may prescribe, proof of any statement made to him as to any fact necessary to determine that question; and if such proof is not furnished to his satisfaction, the question may be determined without regard to that statement.

Provisions as to
Common Market
rates of duty where
drawback, etc.,
allowable.

7. (1) Notwithstanding anything in any enactment, resolution or Order, goods may, in such circumstances or subject to such limitations as may be prescribed, be treated as not eligible for a Common Market rate of duty on importation into Dominica where –

- (a) drawback was allowable in connection with any exportation from any part of the Common Market area of goods or of articles used in the production or manufacture of the goods; and

(b) the Comptroller is satisfied that drawback has not been or will not be allowed.

(2) Where on importation into Dominica goods have been treated as eligible for a Common Market rate of duty and after their importation drawback allowable as aforesaid is allowed, the Comptroller may, in such circumstances as may be prescribed, recover from the importer the additional amount of duty which would have been chargeable on the importation of the goods if they had not been so treated.

(3) References in subsections (1) and (2) to drawback include references to any prescribed remission or repayment of, or exemption from duty chargeable on importation into any part of the Common Market area.

(4) In this section "prescribed" means prescribed by Regulations made by the Minister.

8. (1) For the purpose of complying with any request made to the Comptroller or any other Government officer or department, under arrangements made for the purposes of the Annex to verify or investigate any certificate or other evidence relevant to the question whether any goods exported from, or produced or manufactured (directly or indirectly) from goods exported from Dominica are eligible in another part of the Common Market area for a Common Market rate of duty the Comptroller may make such investigation, and may make to the Government or authority making the request such report or provide them with such information, as appears to the Comptroller requisite; and the Comptroller or an officer may require –

Verification of
origin of exported
goods.

(a) the exporter; or

(b) any other person appearing to the Comptroller or officer to have been concerned with the goods, or any goods from which directly or indirectly they have been produced or manufactured (whether he was concerned with them as respects growth, production, manufacture or handling or in any other way); or

(c) any other person appearing to the Comptroller or officer to have been concerned in the giving of the certificate or evidence, to furnish such information in such form and within such time as the Comptroller or officer may specify in the requirement.

(2) Any reference in subsection (1) to the furnishing of information includes a reference to the production of invoices, bills of lading, and other books or documents whatsoever and to allowing the Comptroller or officer to inspect them and take copies thereof or extracts therefrom.

(3) Any person who without reasonable cause fails to comply with a requirement under this section shall be liable on conviction to a fine of one thousand dollars or in default of payment to imprisonment for a period not exceeding nine months.

(4) An averment in any process in proceedings under this section that any requirement to furnish information which has been made was made for the purpose specified in subsection (1) shall, unless the contrary is proved, be sufficient evidence that the requirement was so made.

Application of Act to subsequent agreements with Common Market countries.

9. (1) If it appears to the Minister that by reason of any agreement with respect to trade made after the passing of this Act between all or any of the countries which are for the time being parties to the Treaty, or between all or any of those countries and any other country, it is expedient so to do the Minister may, by Order, direct that this Act shall have effect with such adaptation or modification of references to the Annex, the Common Market Area, Common Market origin or Common Market rate of duty as may be specified in the Order.

(2) Any Order made pursuant to this section shall be subject to negative resolution of the House.

Implementation of Article 20 of Treaty and Article 63 of Annex. Schedule.

10. (1) Paragraph 1, paragraph 2 (in so far as it relates to representation) and paragraph 3 of Article 20 of the Treaty set out in Part I of the Schedule and paragraph 1 and paragraph 2 (in so far

as it relates to representation) of Article 63 of the Annex set out in Part II of the said Schedule, shall have the force of law in Dominica.

(2) The application of section 9 of the Diplomatic Privileges and Immunities Act, by virtue of any Order under subsection (1) of that section, to the Caribbean Community or the Caribbean Common Market shall not be deemed to be, or to have been, abrogated in consequence of any countries, other than sovereign powers, being included among the members of that Community or Common Market, as the case may be. Ch. 17:50.

11. The Treaty is deemed to have come into force in Dominica as part of its domestic law on the date of ratification in accordance with Article 23 of the Treaty. Application of the Treaty.

SCHEDULE

(Section 10).

PART I

Text of certain provisions of the Treaty

ARTICLE 20

LEGAL CAPACITY

1. The Community shall have full juridical personality.
2. Each Member State shall in its territory accord to the Community the most extensive legal capacity accorded to legal persons under its municipal laws including the capacity to acquire and transfer movable and immovable property and to sue and be sued in its own Name. In any legal proceedings the Community shall be represented by the Secretary-General of the Secretariat.
3. The Community may enter into agreements with Member States, non-member States and International Organizations.

4. Each Member State hereby agrees to take such action as is necessary to make effective in its territory the provisions of this Article and shall promptly inform the Secretariat of such action.

PART II

Text of certain provisions of the Annex

ARTICLE 63

LEGAL CAPACITY

1. The Common Market shall have international juridical personality.

2. Each Member State shall, in its territory, accord to the Common Market the most extensive legal capacity accorded to legal persons under its municipal laws including the capacity to acquire and transfer movable and immovable property and to sue and be sued in its own Name. In any legal proceedings the Common Market shall be represented by the Secretary-General of the Secretariat.

3. Each Member State hereby agrees to take such action as is necessary to make effective in its territory the provisions of this Article and shall promptly inform the Secretariat of such action.

Passed in the House of Assembly this 24th day of March, 1998.

ALEX F. PHILLIP (MRS.)
Acting Clerk of the House of Assembly.

DOMINICA

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