



Caribbean Community (CARICOM) Secretariat



EPA

**HANDBOOK ON BUSINESS AND MARKET OPPORTUNITIES
FOR CARIFORUM PROFESSIONAL SERVICES PROVIDERS**
under the CARIFORUM-EU Economic Partnership Agreement (EPA)



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Editors:

Nand C. Bardouille
S.H. Allyson Francis

Foreword:

Iván Ogando Lora

Content:

Landell Mills

Design/Layout & Printing:

Office Authority

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Caribbean Community (CARICOM) Secretariat
Turkeyen
P.O. Box 10827
Georgetown
Guyana
Tel: (592) 222 0001-0075
Fax: (592) 222 0170/71
E-mail: doccentre@caricom.org
URL: <http://www.caricom.org>

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PROFESSIONAL SERVICES PROVIDERS
under the CARIFORUM-EU Economic Partnership Agreement (EPA)

foreword

Foreword

The Economic Partnership Agreement (EPA) between the Caribbean Forum of African, Caribbean and Pacific (CARIFORUM) States and the European Union (EU) has been provisionally applied since 29th December, 2008.

The EPA Implementation Unit in the CARIFORUM Directorate of the CARICOM Secretariat, as part of its programme of assistance to CARIFORUM States, is in production of a public education-styled booklet series which is intended to sensitize the private and public sectors and other stakeholders with respect to the provisions of the EPA.

This handbook forms part of the series and explains the **Business and Market Opportunities for CARIFORUM Professional Services Providers under the CARIFORUM-EU Economic Partnership Agreement (EPA)**.

Interested parties are encouraged to utilize or reproduce the text of the handbook, in whole or in part, with a request that there be an acknowledgement of the source.

The Secretariat acknowledges with appreciation the support provided to the Unit, including for publication of this booklet, from the 9th European Development Fund (EDF) Caribbean Integration Support Programme (CISP) and the United Kingdom Government's Caribbean Aid for Trade and Regional Integration Trust Fund (CARTFund). The additional support of Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH and the Caribbean Export Development Agency ('Caribbean Export') for publication of this handbook is also acknowledged.

Iván Ogando Lora
Director-General, CARIFORUM Directorate
Caribbean Community (CARICOM) Secretariat

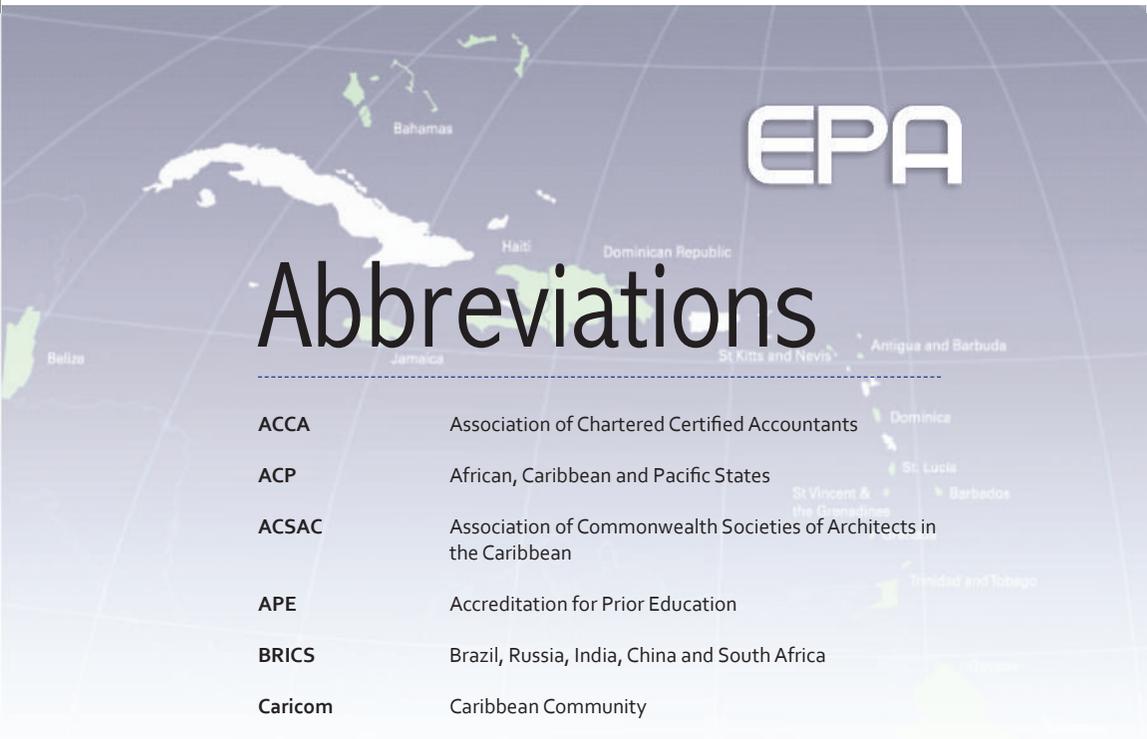


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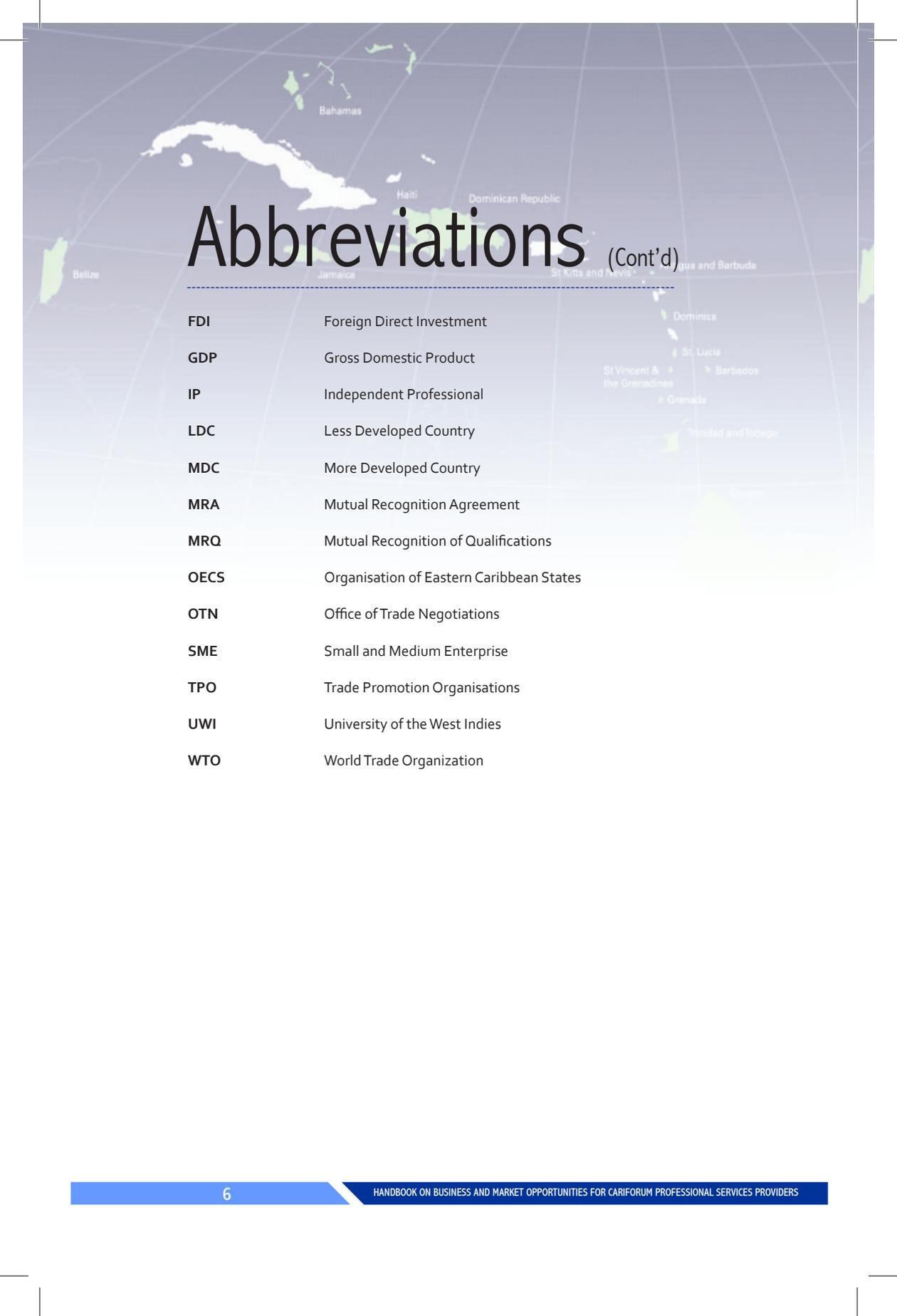
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Abbreviations

ACCA	Association of Chartered Certified Accountants
ACP	African, Caribbean and Pacific States
ACSAC	Association of Commonwealth Societies of Architects in the Caribbean
APE	Accreditation for Prior Education
BRICS	Brazil, Russia, India, China and South Africa
Caricom	Caribbean Community
CARIFORUM	Caribbean Community and the Dominican Republic
C-CSI	Caribbean Coalition of Services Industries
CEDA	Caribbean Export Development Agency
CFE	Centre des formalités des entreprises (Business Start Up Centres – France)
CHTA	Caribbean Hotel and Tourism Association
CICMC	Caribbean Institute of Certified Management Consultants
CPD	Continuing Professional Development
CRNM	Caribbean Regional Negotiating Machinery
CSS	Contract Services Supplier
CTO	Caribbean Tourism Organisation
EC	European Community
EEA	European Economic Area
EEC	European Economic Community
ENT	Economic Needs Test
EPA	Economic Partnership Agreement
EU	European Union



Abbreviations (Cont'd)

FDI	Foreign Direct Investment
GDP	Gross Domestic Product
IP	Independent Professional
LDC	Less Developed Country
MDC	More Developed Country
MRA	Mutual Recognition Agreement
MRQ	Mutual Recognition of Qualifications
OECS	Organisation of Eastern Caribbean States
OTN	Office of Trade Negotiations
SME	Small and Medium Enterprise
TPO	Trade Promotion Organisations
UWI	University of the West Indies
WTO	World Trade Organization

I Introduction

This handbook is intended to provide industry stakeholders, public sectors and interested members of the general public with a concise but clear picture of the key provisions of the Economic Partnership Agreement between the CARIFORUM countries and the EU (“the EPA”) and set out guidelines and recommendations for advancing business opportunities in the EU markets.

The handbook is designed to provide information to professional services providers, in particular, in the CARIFORUM countries in order to enable them to take advantage of the opportunities afforded by the EPA.

There are excellent opportunities for Caribbean professionals to export services to the EU, benefitting not only themselves but also the economies of their home states. Many, perhaps most, are unclear as to how to take advantage of these opportunities or find the task daunting. This handbook provides them with the information that they need, gives a clearer understanding of the opportunities that there are, and what needs to be done and where to get further help.

In addition to the main text, the handbook contains text boxes explaining any technical terms that are used, indicating additional sources of information, or summarizing the text by setting out “Key Points”. The expectation is that this will help the reader in understanding what is involved.

The handbook also sets out recommendations of steps to be taken by the governments of CARIFORUM States, public bodies and civic society institutions in supporting professional service suppliers in availing themselves of the opportunities provided. Professionals in the CARIFORUM countries should no longer feel the need to go abroad to prosper but should be able to do so at home by exporting their services not themselves.

We have tried to be as comprehensive and as up to date as possible. However, it would be impossible to cover all the professions and countries in detail and so we have provided a range of examples and indicated sources of additional information. What is contained in this handbook is indicative and readers are advised to check with the relevant authorities and undertake research before embarking on business in the EU.

Box 1. List of CARIFORUM States and EU Member States

Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, the Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Saint Kitts and Nevis, Surinam, and Trinidad and Tobago. Cuba is a member but was not involved in this EPA.

Box 2. The Legal Systems of the CARIFORUM States and EU Member States

The following CARIFORUM States have a legal system based on the Roman Law and are described as Civil Law systems: (Cuba), Dominican Republic and Haiti.

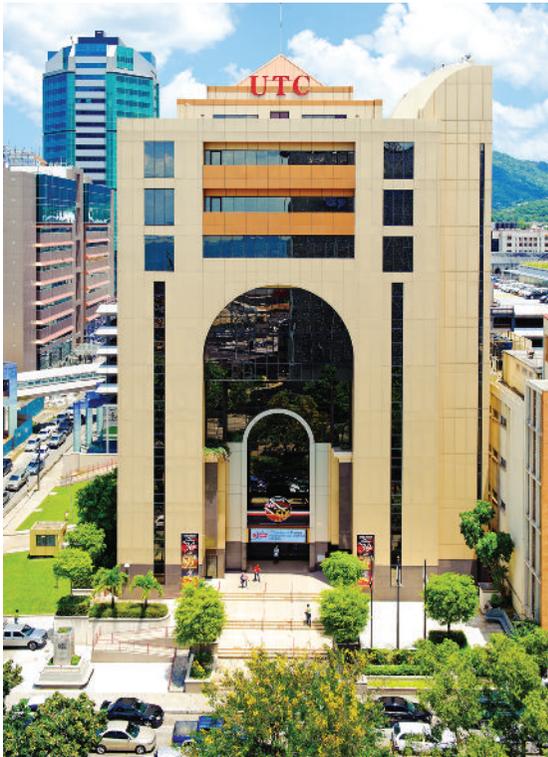
The following CARIFORUM States have a Common Law legal system, based on English Law: Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Grenada, Jamaica, St. Kitts and Nevis, St. Vincent and the Grenadines, Trinidad and Tobago.

These CARIFORUM States have a mixed legal system: Guyana and Saint Lucia

All of the EU Member States, with the exception of Ireland and the UK (and to some extent, Cyprus) have a legal system based on the Roman Law and are described as Civil Law systems.

It should be noted that the United Kingdom has three separate legal jurisdictions; England and Wales, Scotland and Northern Ireland. England, Wales and Northern Ireland are part of the Common Law tradition found in the Anglophone Caribbean countries. So too is the Republic of Ireland. Scots Law has its roots in the Civil Law tradition of continental Europe but with substantial Common Law influences.

Some countries (UK, Germany, Italy and Spain) have considerable decentralization of government.



II THE ECONOMIC PARTNERSHIP AGREEMENT



The Background

At the first Lome Convention in 1975, 6 of the current CARIFORUM¹ countries joined other countries from Africa and the Pacific to form the African, Caribbean and Pacific group of states (ACP) and to agree their trade and development relationship with the 9 EEC member states².

There was a radical change in the whole system under the Cotonou Agreement of 23 June 2000 which established a new and comprehensive basis for ACP-EU relations. The aim was to provide a framework for:

- Gradual integration of the ACP states into the global economy.
- Compatible trading arrangements.
- Enhancing cooperation on all matters relating to trade.
- Progressively removing barriers to trade.
- Economic development.
- The reduction and eventual eradication of poverty.

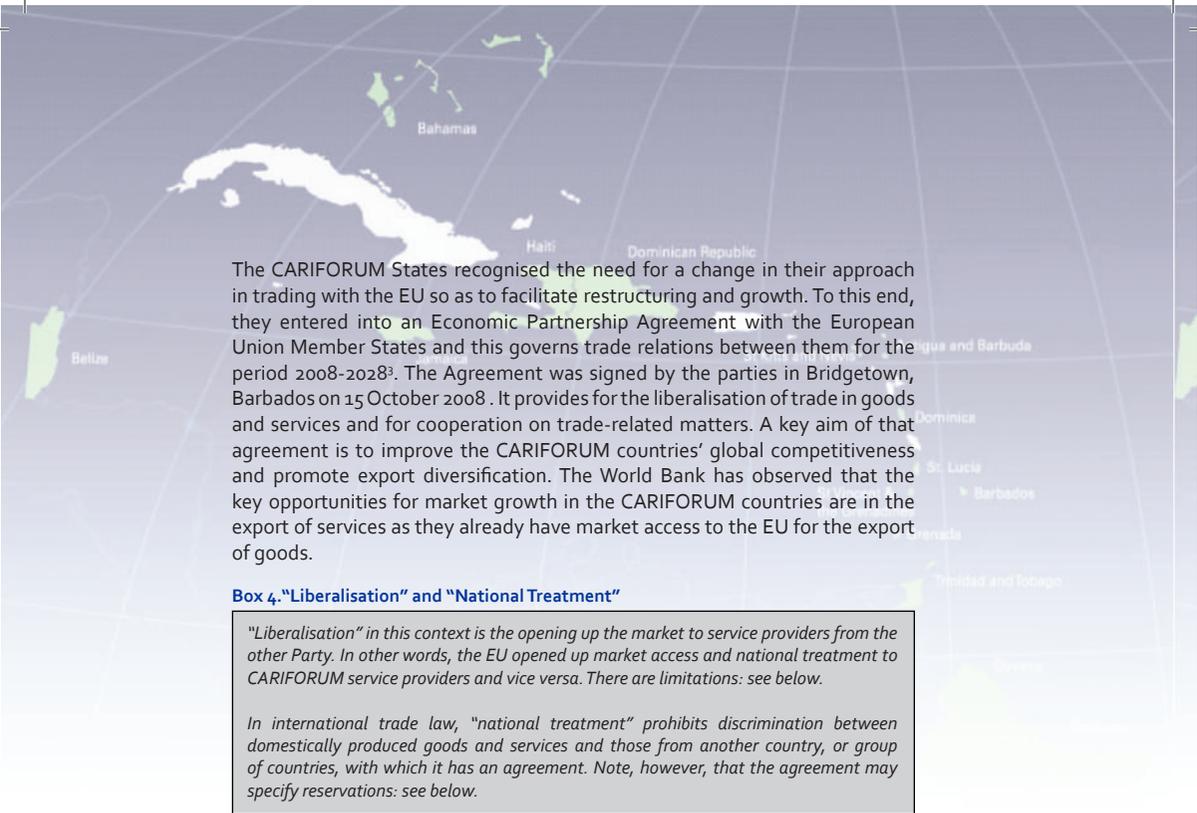
The EU had to change the basis of its trading relationship with the ACP following the establishment of the World Trade Organisation (WTO) in 1995. This involved the liberalisation of market access and equal national treatment.

Box 3. EEC, EC or EU?

The European Union has evolved over a long period. It started as an agreement between 6 member states to provide for cooperation on coal, steel, atomic energy and on other economic matters. It became the European Economic Community (EEC) on the signing of the Treaty of Rome in 1957. Under the Treaty of Maastricht 1993 the EEC became the European Community (EC). The Treaty of Lisbon 2009 replaced it with the European Union (EU). As the EPA was signed in 2008, it refers to the CARIFORUM Agreement with the EC.

¹Bahamas, Barbados, Grenada, Guyana, Jamaica and Trinidad and Tobago.

²Belgium, Denmark, France, Germany, Ireland, Italy Luxembourg, Netherlands and UK.



The CARIFORUM States recognised the need for a change in their approach in trading with the EU so as to facilitate restructuring and growth. To this end, they entered into an Economic Partnership Agreement with the European Union Member States and this governs trade relations between them for the period 2008-2028³. The Agreement was signed by the parties in Bridgetown, Barbados on 15 October 2008. It provides for the liberalisation of trade in goods and services and for cooperation on trade-related matters. A key aim of that agreement is to improve the CARIFORUM countries' global competitiveness and promote export diversification. The World Bank has observed that the key opportunities for market growth in the CARIFORUM countries are in the export of services as they already have market access to the EU for the export of goods.

Box 4. "Liberalisation" and "National Treatment"

"Liberalisation" in this context is the opening up the market to service providers from the other Party. In other words, the EU opened up market access and national treatment to CARIFORUM service providers and vice versa. There are limitations: see below.

In international trade law, "national treatment" prohibits discrimination between domestically produced goods and services and those from another country, or group of countries, with which it has an agreement. Note, however, that the agreement may specify reservations: see below.

Although the EPA is based on reciprocity, the CARIFORUM states fought determinedly in the negotiations to ensure improved market access and national treatment for their services suppliers and for EC technical assistance in improving the region's capacity to compete more effectively in the services sector. The aim is to help CARIFORUM states to move to more value-added economic activity and to greater competitiveness in the export of services.

Box 5. Key Points

1. The framework for cooperation in trade related matters originated in agreements in Lome in 1975 and Cotonou in 2000.
2. Those agreements sought to balance trade liberalisation with support for economic development in the ACP countries (which included those in the CARIFORUM States).
3. The establishment of the World Trade Organisation in 1995 led to the need to renegotiate these agreements and to provide for greater market access and national treatment for goods and services.
4. The EPA between the CARIFORUM States and the EC contains provisions for greater market access and national treatment to the EC (now "EU") for service providers from the CARIFORUM states.
5. The EPA also provides for development assistance from the EU to help services providers become more competitive and to take advantage of the opportunities to export their services to the EU.

A Brief Guide

The preamble to the EPA acknowledges "...the difference in levels of economic and social development existing between the CARIFORUM States and the European Community and its Member States". The aim is to strengthen the framework for economic and trade relations between them through the

³ Guyana signed in Brussels on 20 October 2008 and Haiti signed in December 2009.

establishment of the EPA “which can serve as an instrument for the development of the CARIFORUM States”. The EPA is intended to build on and improve the existing level of preferential market access into the EU for the CARIFORUM States.

The preamble goes on to state the parties’ awareness “... that building capacities and addressing supply constraints in CARIFORUM States is required to take full advantage of increased trading opportunities and maximise the benefits of trade reforms and REAFFIRMING the essential role that development assistance, including trade-related assistance, can play in supporting CARIFORUM States to implement and take advantage of this Agreement”

The objectives of the EPA are set out in Article 1 and include:

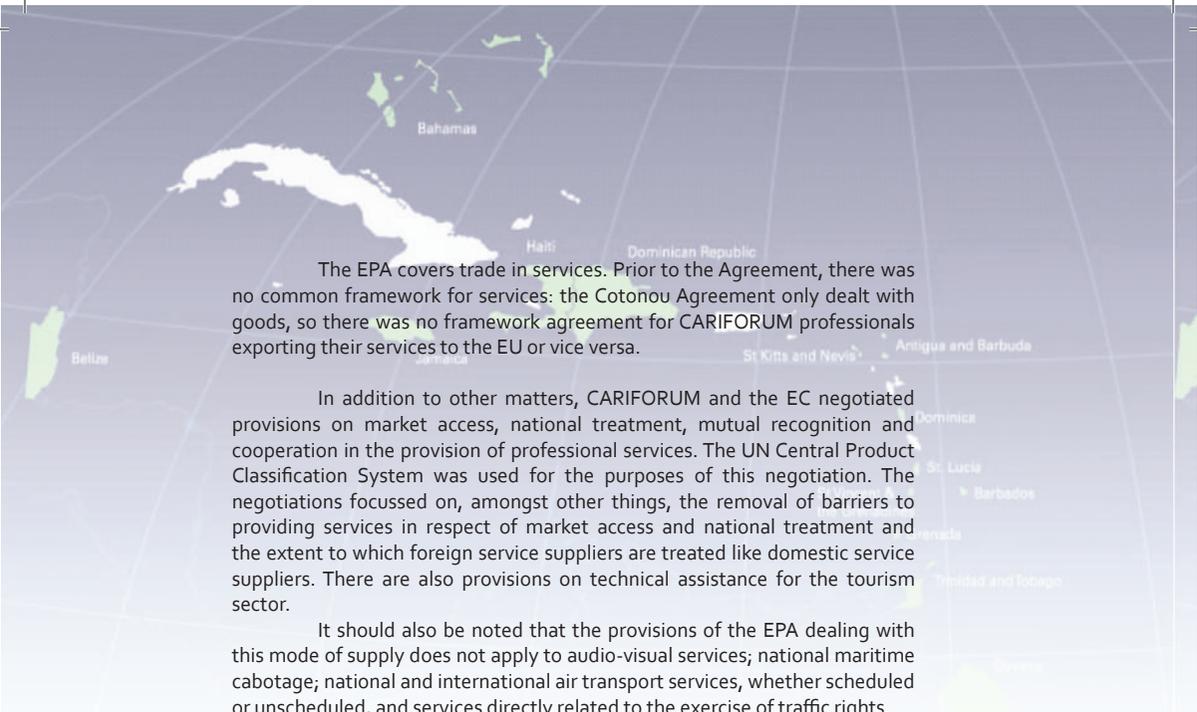
- promoting the gradual integration of CARIFORUM states into the world economy;
- improving CARIFORUM States’ capacity in trade policy and management;
- supporting the investment environment and private sector initiative, and enhancing supply capacity competitiveness and economic growth;
- strengthening the existing relations between the parties on the basis of solidarity and mutual interest.
- “(t)aking into account their respective levels of development and consistent with WTO obligations”, enhancing commercial and economic relations, “supporting a new trading dynamic between the Parties by means of the progressive, asymmetrical liberalisation of trade between them” and reinforcing, broadening and deepening cooperation in all areas relevant to trade and investment

Box 6. “Asymmetrical Liberalisation”

The EU has liberalised market access and national treatment for 94% of its services sectors and subsectors. In the case of the More Developed Countries (MDC) in CARIFORUM, it is at least 75%, the Less Developed Countries (LDC) liberalised at least 65%.

Box 7. MDCs and LDCs in the CARIFORUM

MDCs: Bahamas, Barbados, Guyana, Jamaica, Suriname and Trinidad and Tobago. LDCs: Antigua and Barbuda, Belize, Dominica, Grenada, Haiti, Montserrat, St. Kitts and Nevis, St. Lucia and St. Vincent and the Grenadines.



The EPA covers trade in services. Prior to the Agreement, there was no common framework for services: the Cotonou Agreement only dealt with goods, so there was no framework agreement for CARIFORUM professionals exporting their services to the EU or vice versa.

In addition to other matters, CARIFORUM and the EC negotiated provisions on market access, national treatment, mutual recognition and cooperation in the provision of professional services. The UN Central Product Classification System was used for the purposes of this negotiation. The negotiations focussed on, amongst other things, the removal of barriers to providing services in respect of market access and national treatment and the extent to which foreign service suppliers are treated like domestic service suppliers. There are also provisions on technical assistance for the tourism sector.

It should also be noted that the provisions of the EPA dealing with this mode of supply does not apply to audio-visual services; national maritime cabotage; national and international air transport services, whether scheduled or unscheduled, and services directly related to the exercise of traffic rights.

Box 8. UN Central Product Classification System

The UN Statistical Commission has established a classification system for goods and services to facilitate the development of trade data. It divides services into sectors and subsectors and these will be referred to later in this handbook.

The approach taken in the EPA is for a progressive two-way liberalisation of investment and trade in services. This will require adjustments to legislation, regulations and administrative

provisions in the EU and in the CARIFORUM States.

Each state is entitled to retain its domestic regulations governing the professions in respect of such matters as qualifications, certification, registration and licensing etc. However, there are also provisions in the EPA on cooperation and mutual recognition of qualifications in respect of professional services.

Article 82 of the Agreement provides that:

"the Parties shall encourage the relevant professional bodies in the respective territories to jointly develop and provide recommendations on mutual recognition to the CARIFORUM/EU Trade and Development Committee...for the authorisation, licensing, operation and certification of investors and service suppliers and, in particular, in the professional services sector".

This will require subsidiary agreements on mutual recognition of skills and qualifications.

There are provisions in the EPA to facilitate trade in services by making it easier for CARIFORUM professionals to visit EU Member States for brief periods for business purposes. Those purposes must relate to research and design, marketing, training, trade fairs, sales, purchasing and tourism. However, this does not compel EU Member States to issue any CARIFORUM

national with a visa for such travel. However, though Member States can retain or amend their rules governing, for example, visas, residence permits and work permits, the Agreement states that may only do so "...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".

Title 2 of the EPA contains provisions for the development of common rules for e-commerce e.g. on electronic signatures and consumer protection. Title 3 deals with current payments and capital movement. The aim is to ease the process through which payments for commercial transactions can be made and the process by which capital related to investment is moved between the two sides.

The EPA has specific provisions governing professionals and services in the entertainments sector and a Special Protocol on Cultural Cooperation with particular reference to the audio-visual sector.

Box 9. Key Points

- The EPA recognises the difference in levels of economic and social development between the CARIFORUM states and the EU.*
2. *The liberalisation of market access and national treatment is "asymmetrical" i.e. the EU Member States have given much greater access to their market for services than those given by the CARIFORUM States.*
 3. *The EPA provides for development assistance to be provided by the EU to help CARIFORUM states improve their capacities in trade policy and management;*
 4. *It also provides for technical assistance for the services sector to take advantage of the opportunities to access EU markets.*
 5. *There are provisions on mutual recognition and cooperation in the provision of professional services.*
 6. *Special provisions relate to tourism services providers, entertainers and the audio-visual sector.*
 7. *There are opportunities for professionals to visit EU Member States for brief periods for business purposes.*
 8. *EU Member States may continue to impose visa restrictions but these must not be used to frustrate the provisions of the EPA.*

Modes of Supplying Services

The WTO system for international trade agreements provides for market access and national treatment through four different means of delivery. These are referred to as "modes of supply". The EPA uses these 4 standard modes of trade in services.

- **Mode 1: Cross-Border Supply**

Services flow from the territory of one Member State to that of another. This covers e-commerce e.g. by internet, telephone, telecommunications, downloads, satellite transmission etc. The commitments given in this regard are rather conservative. For example, access to the provision of auditing services by this means is limited in 21 EU Member States.

- **Mode 2: Consumption Abroad**

The consumer moves into another Member's territory to obtain services e.g. a person travelling to another country to receive medical treatment, a tourist going on holiday, a person going to another country for training. It also applies where, for example, equipment is sent abroad for enhancing or repair.

The commitments for this mode of delivery are more liberal than those given in respect of mode 1. Most countries made no reservations in respect of this mode of delivery.

- **Mode 3: Commercial Presence**

A service supplier from one Member State establishes a territorial presence in another Member State, including through ownership or lease of premises there, in order to provide a service. The system is based on reservations rather than permissions i.e. if the EU Member State has not stated a reservation or limitation in the List of Commitments on Commercial Presence; it is presumed that there is none other than the usual restrictions in relation to visas etc.

There are some limitations in respect of certain professional services and these are indicated below.

- **Mode 4: Presence of Natural Persons**

Persons from one state enter the territory of another in order to provide a service. This enables the temporary entry and stay of key personnel and graduate trainees for periods of up to 3 years for intra-corporate transfers: 90 days in any 12 month period for business persons; 12 months for graduate trainees (Article 82).



Article 80(1) provides that this covers:

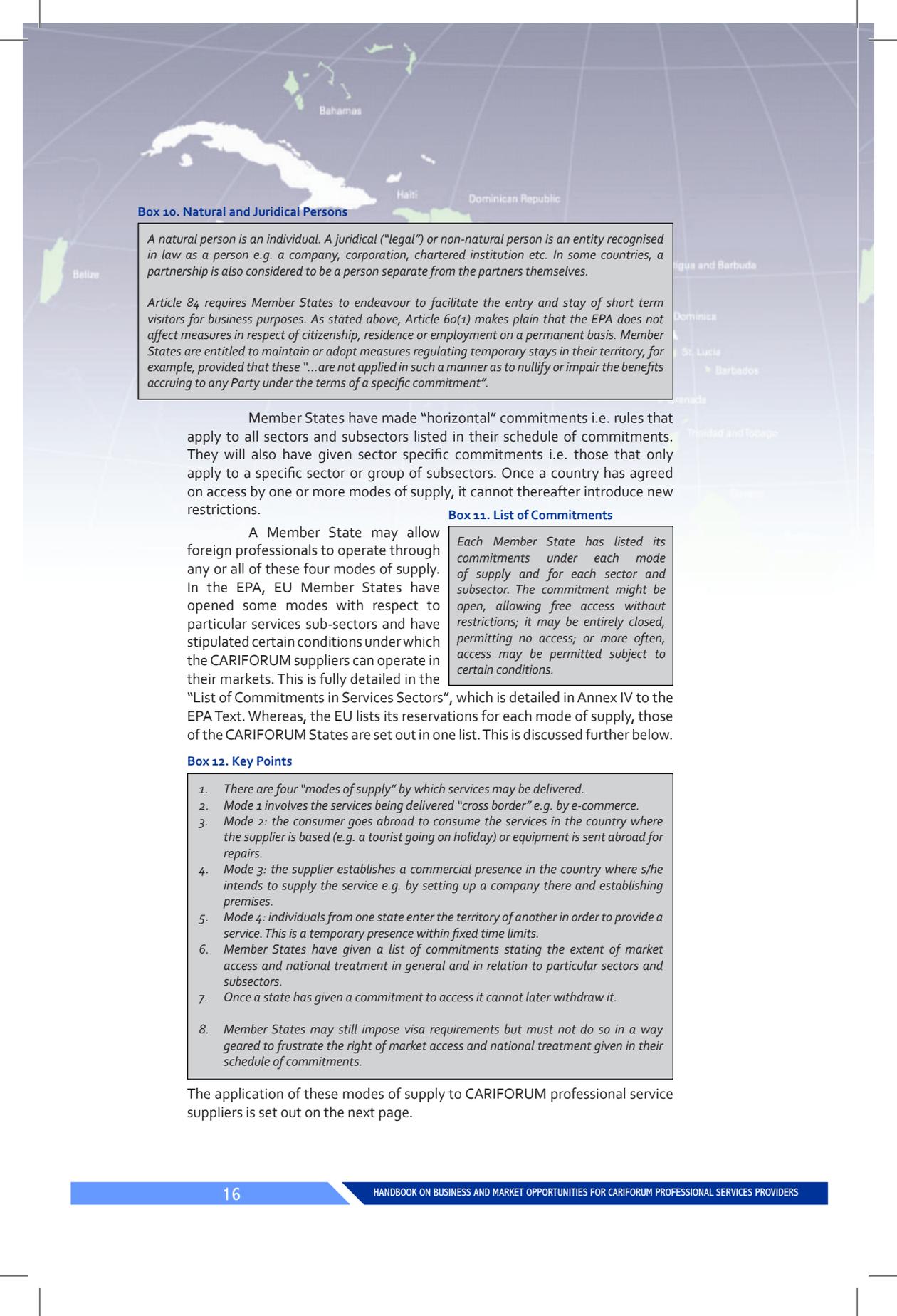
- key personnel – business visitors responsible for setting up a commercial presence and those involved in intra-corporate transfers;
- graduate trainees;
- business services sellers;
- short term visitors for business purposes;
- contract services suppliers (CSS) ;
- independent professionals (IP).



Those entering for business purposes can only do so in order to:

- engage in research and design;
- undertake marketing research;
- attend or provide training seminars;
- attend trade fairs and exhibitions;
- negotiate sales of services;
- negotiate the purchase of services;
- to make arrangements for tours (in the case of tourism professionals).

Those visiting for business purposes cannot sell services directly to the general public whilst in the Member State or acquire remuneration for the provision of services during their visit.



Box 10. Natural and Juridical Persons

A natural person is an individual. A juridical ("legal") or non-natural person is an entity recognised in law as a person e.g. a company, corporation, chartered institution etc. In some countries, a partnership is also considered to be a person separate from the partners themselves.

Article 84 requires Member States to endeavour to facilitate the entry and stay of short term visitors for business purposes. As stated above, Article 60(1) makes plain that the EPA does not affect measures in respect of citizenship, residence or employment on a permanent basis. Member States are entitled to maintain or adopt measures regulating temporary stays in their territory, for example, provided that these "...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".

Member States have made "horizontal" commitments i.e. rules that apply to all sectors and subsectors listed in their schedule of commitments. They will also have given sector specific commitments i.e. those that only apply to a specific sector or group of subsectors. Once a country has agreed on access by one or more modes of supply, it cannot thereafter introduce new restrictions.

Box 11. List of Commitments

A Member State may allow foreign professionals to operate through any or all of these four modes of supply. In the EPA, EU Member States have opened some modes with respect to particular services sub-sectors and have stipulated certain conditions under which the CARIFORUM suppliers can operate in their markets. This is fully detailed in the "List of Commitments in Services Sectors", which is detailed in Annex IV to the EPA Text. Whereas, the EU lists its reservations for each mode of supply, those of the CARIFORUM States are set out in one list. This is discussed further below.

Each Member State has listed its commitments under each mode of supply and for each sector and subsector. The commitment might be open, allowing free access without restrictions; it may be entirely closed, permitting no access; or more often, access may be permitted subject to certain conditions.

Box 12. Key Points

1. There are four "modes of supply" by which services may be delivered.
2. Mode 1 involves the services being delivered "cross border" e.g. by e-commerce.
3. Mode 2: the consumer goes abroad to consume the services in the country where the supplier is based (e.g. a tourist going on holiday) or equipment is sent abroad for repairs.
4. Mode 3: the supplier establishes a commercial presence in the country where s/he intends to supply the service e.g. by setting up a company there and establishing premises.
5. Mode 4: individuals from one state enter the territory of another in order to provide a service. This is a temporary presence within fixed time limits.
6. Member States have given a list of commitments stating the extent of market access and national treatment in general and in relation to particular sectors and subsectors.
7. Once a state has given a commitment to access it cannot later withdraw it.
8. Member States may still impose visa requirements but must not do so in a way geared to frustrate the right of market access and national treatment given in their schedule of commitments.

The application of these modes of supply to CARIFORUM professional service suppliers is set out on the next page.

III OPPORTUNITIES FOR THE PROFESSIONAL SERVICES SECTOR

The Importance of the Services Sector in the EU and in the CARIFORUM States

The services sector is the highest contributor to GDP and employment in the EU: contributing 80% of both. Financial services account for 28.1%; legal, accounting, management consultancy, architecture, engineering, advertising and market research together contribute 22.7%; wholesale and retail trades 16.5% of GDP.

The Caribbean countries are the only part of the ACP that are net suppliers of services. It is estimated that trade in services amounts to more than 47% of total exports for CARIFORUM countries. That figure increases to 62% if Trinidad and Tobago is excluded. In the case of the OECS it amounts to almost 80% of exports⁴. Indeed, the main sources of CARIFORUM countries' national growth have been remittances and services exports. This has exceeded global growth. However, it is dominated by tourism and if that sector was excluded the balance would be negative.

Tourism is a vital sector for the CARIFORUM States, particularly the OECS. There is a clear need to diversify so as to reduce the dependency on tourism. It is increasingly being recognized that the CARIFORUM countries may have some comparative advantages internationally, including in mainland Europe, in the provision of services other than tourism.

"...the service sector, especially knowledge-based services, represents the most viable avenue for economic diversification and global repositioning for the region given its value-added potential and the region's factor endowments"⁵.

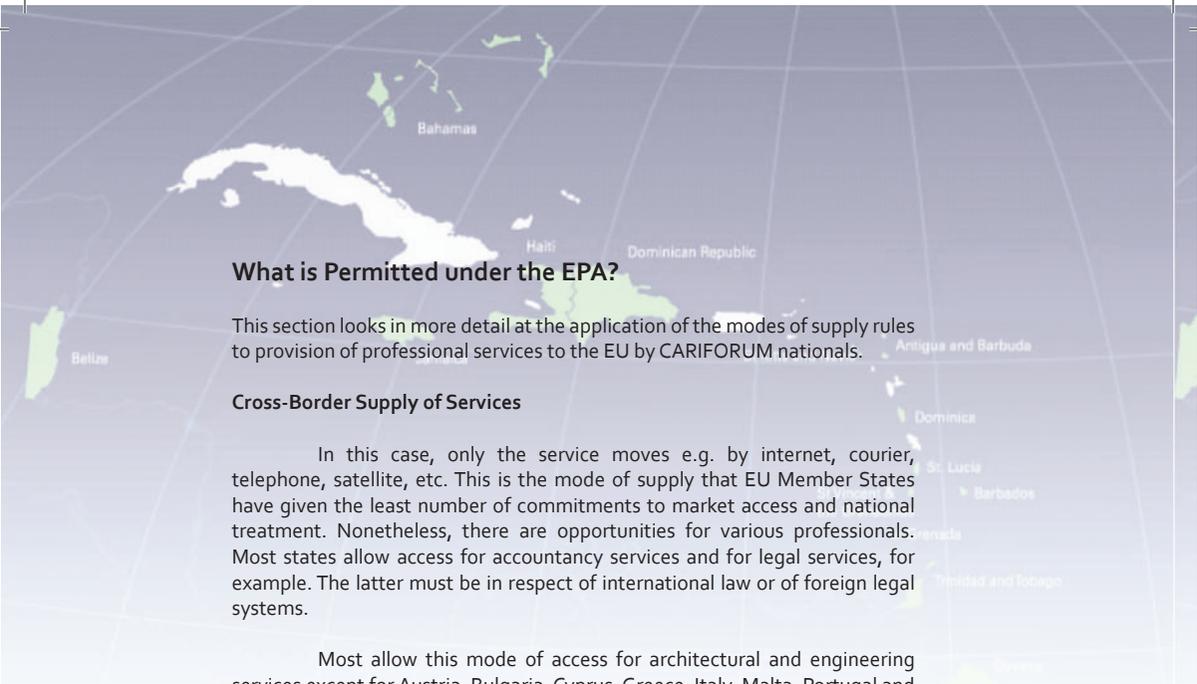
Promotion of the export of professional services could contribute up to 10% of annual export receipts for Barbados, for example, according to a CEDA report⁶. As well as contributing to national income, this would create skills-intensive jobs and thereby avoiding the emigration of qualified professionals due to lack of opportunity in their home country.

Despite the global economic downturn, the CARIFORUM states have shown a growing trend in the export of services to the EU in tourism, financial services and telecommunications. Nonetheless, the CARIFORUM states need to do more to promote more export-oriented services so that the EPA may provide an avenue for optimizing these options.

⁴ Caribbean Regional Negotiating Machinery, *Getting to Know the EPA : Provisions on Services and Investment*.

⁵ Pierre Sauvé and Natasha Ward, *The EC-CARIFORUM Economic Partnership Agreement: Assessing the Outcome on Services and Investment*,

⁶ Caribbean Export Development Agency, *Strategic Marketing Plan for the Promotion of Professional Services Exports, Barbados, 2007*.



What is Permitted under the EPA?

This section looks in more detail at the application of the modes of supply rules to provision of professional services to the EU by CARIFORUM nationals.

Cross-Border Supply of Services

In this case, only the service moves e.g. by internet, courier, telephone, satellite, etc. This is the mode of supply that EU Member States have given the least number of commitments to market access and national treatment. Nonetheless, there are opportunities for various professionals. Most states allow access for accountancy services and for legal services, for example. The latter must be in respect of international law or of foreign legal systems.

Most allow this mode of access for architectural and engineering services except for Austria, Bulgaria, Cyprus, Greece, Italy, Malta, Portugal and Slovenia. Belgium and Poland permit access for engineering services but not architectural services.

The commitments on access for medical, dental and veterinary services are fewer. In the case of medical and dental services, only the Czech Republic, Hungary, Latvia, Lithuania, Poland, Slovenia and Sweden permit any access by this mode. Access for nursing services are only permitted by Finland, Poland and Sweden, the latter being the only Member State to give commitments for midwifery, paramedic and physiotherapy services. Access for veterinary services is given by Finland, Luxembourg, Poland, Sweden and the UK.

It must be remembered that these only relate to services that can be performed cross-border without the presence of the professional in the country of delivery. Thus, for example, in the case of the medical professions, diagnostic and advisory services might be supplied through this mode of delivery. Training might be provided through satellite communications etc.

It must also be noted that these services can only be provided by professionals whose qualifications and skills match those requirements of the state in which the service is to be delivered. There is more on this matter below.

Box 13. Services Liberalised under Mode 1

Accounting, Bookkeeping, Auditing and Taxation Advisory Services: access has been granted by almost all EU Member States. Auditing services is much more limited only Austria, Czech Republic, Germany, Latvia, Lithuania, Poland, Slovakia, Spain, Sweden granting such access and there are limitations in Austria, Lithuania and Sweden.

Advertising, Market Research and Opinion Polling: Access has been granted by all Member States.

Architectural and Urban Planning, Engineering and Integrated Engineering, and Landscape Architecture Services: Market access has been granted by most EU Member

States. Notable exceptions are Austria, Belgium (except for engineering), Bulgaria, Cyprus, Greece, Italy, Malta, Poland (except for engineering), Portugal, Slovenia.

Computer and Related Services: Access has been granted by all Member States.

Construction and Related Engineering Services: Access has been granted by all Member States.

Distribution Services: Access has been granted by all Member States except: Austria (distribution of pyrotechnical goods, of ignitable articles and blasting devices and of toxic substances); Austria and Bulgaria (distribution of products for medical use such as medical and surgical devices, medical substances and objects for medical use); Austria, Bulgaria, Poland and Romania (distribution of tobacco and tobacco products); Italy (wholesale trade services, state monopoly on tobacco); Bulgaria, Finland, Poland and Romania (distribution of alcoholic beverages); Sweden (retail distribution of alcoholic beverages) Austria, Bulgaria, Czech Republic, Finland, Romania, Slovakia and Slovenia (distribution of pharmaceuticals); Bulgaria, Hungary, and Poland (commodity brokers' services); France (commission agents' services, traders and brokers working in 17 markets of national interest on fresh food products and in respect of wholesale of pharmaceuticals); Malta (commission agents' services); Belgium, Bulgaria, Cyprus, Czech Republic, Germany, Denmark, Spain, France, Greece, Ireland, Italy, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia and the UK (retailing services, unbound except for mail order). No access is granted by any Member State in respect of for distribution of chemical products, of precious metals (and stones).

Education Services: Access has been granted by all Member States except Slovenia in respect of primary education services; Bulgaria, Cyprus, Finland, France, Italy, Malta, Romania and Sweden (primary, secondary or higher education); Austria (higher education; Czech Republic and Slovakia: (higher education services, except post-secondary technical and vocational education services); Latvia (education services relating to technical and vocational secondary school-type education services for handicapped students); Cyprus, Finland, Malta, Romania and Sweden (adult education); Austria: (adult education services by means of radio or television broadcasting). No access is granted for other educational services, except in the Czech Republic.

Energy-related Consulting Services: Access has been granted by all Member States in relation to mining services and those related to pipeline transportation of fuels.

Environmental Consulting Services: Access has been granted by all Member States, except for consulting services.

Executive Search, Placement and Supply of Office Personnel: Only Belgium, Denmark, France, Greece, Hungary, Italy, Luxembourg, Netherlands and the United Kingdom permit access for executive search; Hungary permits access for placement services; Belgium, Denmark, Greece, Hungary, Luxembourg and the United Kingdom for the supply services of office support personnel.

Financial Services: There is a very extensive list of reservations in relation to insurance and banking and other financial services.

Interior Design: Access has been granted by all Member States, however Germany requires the application of the national rules on fees and emoluments for all services which are performed from abroad.

Leasing of Equipment (ships, aircraft, transport equipment, machinery, telecommunications equipment etc): Access has been granted by all Member States, except by: Bulgaria, Cyprus, Germany, Hungary, Malta and Romania (ships); Bulgaria,



Cyprus, Czech Republic, Hungary, Latvia, Malta, Poland, Romania and Slovakia (aircraft); Bulgaria, Cyprus, Hungary, Latvia, Malta, Poland, Romania and Slovenia (relating to other transport equipment); Bulgaria, Cyprus, Czech Republic, Hungary, Malta, Poland, Romania and Slovakia (relating to other machinery and equipment;) only in Latvia, Lithuania and the United Kingdom for personal and household goods and in Estonia in respect of leasing or rental services concerning pre-recorded videocassettes for use in home entertainment equipment.

Legal Services: A CARIFORUM business can provide legal advisory services on international law or foreign law from its home base to clients in a number of EU countries. To provide advisory services in the law of the Member State the individual service provider would require to be a member of the Bar or equivalent professional body of that Member State. In some case residency and nationality reservations also apply.

Management Consulting and Services Related to Management Consulting: Access has been granted by all Member States, except in the case of arbitration and conciliation services in Hungary.

Medical, Dental, and Veterinary Services: A CARIFORUM business can provide medical and dental services from its home base to clients in Czech Republic, Hungary, Latvia, Lithuania, Poland, Slovenia and Sweden.

Midwifery, Physiotherapy and Paramedical services: can be provided to clients in Sweden.

Nursing services: can be provided to clients in Finland, Poland and Sweden.

Photographic, Printing, Publishing, Duplicating and Telephone Answering Services: Access has been granted by all Member States, except Bulgaria, Estonia, Malta, and Poland in the case of the supply of aerial photographic services and Latvia in respect of specialty photographic services.

Real Estate Services: Access has been granted by all Member States, except in Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Ireland, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia.

Research and Development Services: Access has been granted by all Member States. However, in the case of publicly funded Research and Development services, exclusive rights and/or authorisations can only be granted to EU nationals and to EU juridical persons having their headquarters in the EU.

Satellite Broadcast Transmission Services: Access has been granted by all Member States, except Belgium. Service providers in this sector may be subject to obligations to safeguard general interest objectives related to the conveyance of content through their network in line with the EU regulatory framework for electronic communications.

Technical Testing and Analysis and Scientific and Technical Consulting Services: Access has been granted by all Member States, except for Bulgaria, Cyprus, Czech Republic, Malta, Poland, Romania, Slovakia and Sweden: and in Italy, in the case of the professions of biologist and chemical analyst.

Telecommunications Consulting Services: Access has been granted by all Member States.

Translation, Interpretation and Convention Services: Access has been granted by all Member States, except for Poland in the case of sworn interpreters and Hungary and Slovakia in respect of official translation and interpretation.

Veterinary services: can be provided to clients in Finland, Luxembourg, Poland, Sweden and the U.K.

Box 14. Key Points

1. *Mode 1 involves the services being delivered "cross border" e.g. by e-commerce.*
2. *Fewer commitments have been given to permitting this mode of supply than to others but nonetheless there are opportunities for accountants, architects, engineers and lawyers.*
3. *There are more limited opportunities for auditors, medical, dental and veterinary practitioners, midwives, physiotherapists and paramedics.*
4. *These only relate to services that can be performed cross-border without the presence of the professional in the country of delivery.*
5. *The services can only be provided by professionals whose qualifications and skills match those requirements of the state in which the service is to be delivered.*

Mode 2: Consumption Abroad

This is where the customer comes to the place where the service provider is based. In many countries, health and wellness tourism is being offered through mode 2 supply. It is becoming commonplace for UK citizens to travel to Hungary for cosmetic dental treatment for example and to combine this with a short-break holiday. Others travel to have operations done more quickly than is available in the home country where there may be lengthy waiting lists for such treatment. Many travel for "elective surgery" and for "cosmetic surgical treatments". There is a surge in interest in "wellness tourism" where stressed consumers travel to destinations to enjoy therapeutic, holistic and/or spiritual retreats. Educational tourism is also on the increase with tourists travelling on themed breaks to study poetry, engage in writing classes, to actively immerse themselves in local culture, acquire ethnic cooking skills, improve their cricket, diving, rugby etc.

The offer of training to professionals in attractive destinations is also growing. This is a mode 2 form of supply, though sometimes it is a combination of mode 1 and 2.

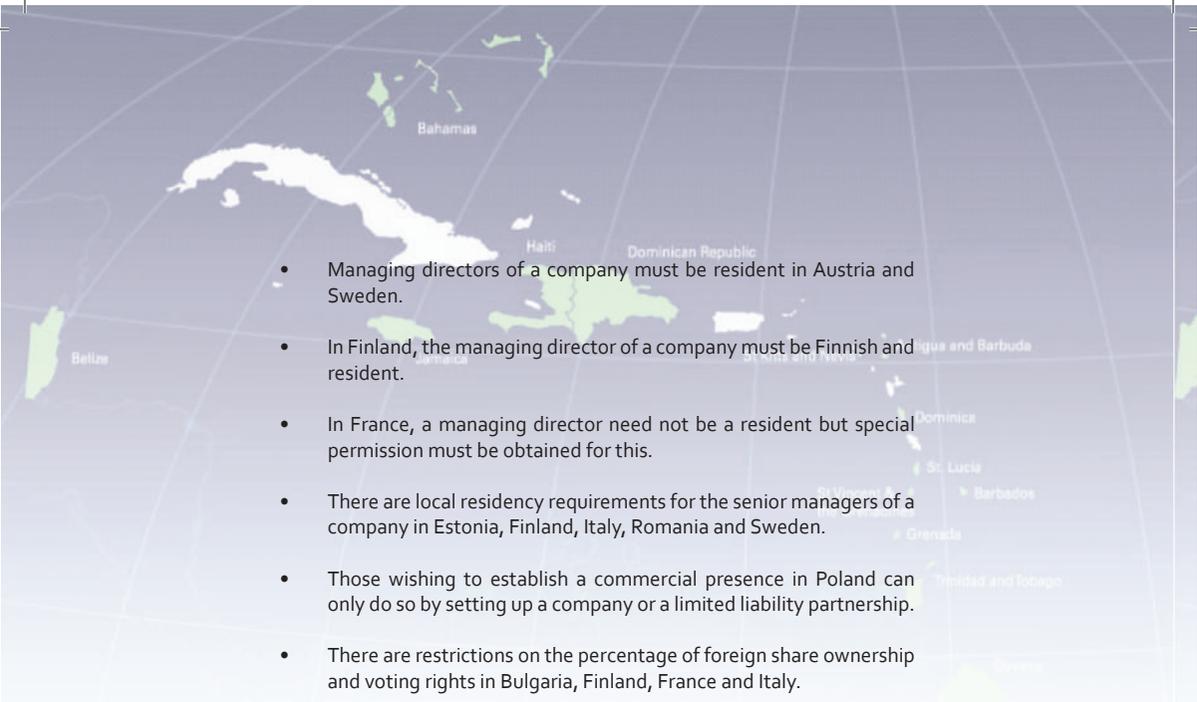
The mode of supply also covers the situation where vessels, vehicles, equipment or other goods are sent by the consumer based in one country to an adaptor, enhancer or repairer in another.

Mode 3: Commercial Presence

The EPA provides CARIFORUM citizens with the right to establish new businesses or invest in existing firms within the EU in any of the services sub-sectors where EU Member States have made a commitment to access under this mode of supply.

General Reservations:

- Here are restrictions on the acquisition of land or other real estate in Austria, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Poland, Romania, Slovenia, Slovakia and Spain.
- There are local citizenship requirements for the senior managers of a company in Romania.

- 
- Managing directors of a company must be resident in Austria and Sweden.
 - In Finland, the managing director of a company must be Finnish and resident.
 - In France, a managing director need not be a resident but special permission must be obtained for this.
 - There are local residency requirements for the senior managers of a company in Estonia, Finland, Italy, Romania and Sweden.
 - Those wishing to establish a commercial presence in Poland can only do so by setting up a company or a limited liability partnership.
 - There are restrictions on the percentage of foreign share ownership and voting rights in Bulgaria, Finland, France and Italy.

Box 15. Services Liberalised under Mode 3 in Most EU Member States

Subject to the General Reservations listed above, CARIFORUM firms can establish a business presence or invest in business enterprises in the EU to provide the following professional services in almost all EU Member States:

Accounting, Bookkeeping, Auditing and Taxation Advisory Services: Access is granted by all states, however, there are limitations on equity participation in Austria; an ENT in Cyprus; and, in Denmark, in order to enter into partnerships with Danish authorised accountants, foreign accountants have to obtain permission from the Danish Commerce and Companies Agency. In the case of auditors there are equity restrictions in Austria, the Czech Republic, Slovakia, Slovenia and Lithuania. Sweden only permits auditors approved in Sweden. Denmark requires permission as for accountants. Cyprus imposes an ENT. In Finland, there is a residency requirement. In the case of Austria, there is an equity restriction and an ENT in Cyprus.

Advertising, Market Research and Management: Access is granted by all.

Building Cleaning Services: Access is granted by all.

Collection Agency, Credit Reporting, Security and Investigation Services: Access is granted by all, except that Italy and Portugal impose a nationality requirement. Belgium excludes access in respect of consumer credit databanks, nationality condition for investors.

Computer and Related Services: Access is granted by all.

Construction and Related Engineering Services Access is granted by all, however, in Bulgaria, for projects of national or regional significance, foreign investors have to act in partnership or as subcontractors of local investors.

Consulting Services: Access is granted by all.

Distribution Services: Access is granted by all, except in Austria, where the distribution of pyrotechnical goods, of ignitable articles and blasting devices and of toxic substances are excluded and the distribution of pharmaceutical products and of tobacco products, exclusive rights and/or authorisations can only be granted to EU nationals and to EU juridical persons having their headquarters in the EU. Distribution of alcoholic beverages

is excluded in Finland. In France and Italy there is a state monopoly in respect of tobacco and in France there is an ENT in respect of wholesale pharmacies.

Education Services: Access is granted by all, excluding Cyprus, Finland, Malta, Romania and Sweden and in the following cases: Austria (higher education services and education services for adults by means of radio or television broadcasting); Bulgaria (supply of primary, secondary and higher education services); Czech Republic and Slovakia: (nationality condition for majority of members of the Board and exclude higher education services except for post-secondary technical and vocational education services); Greece (nationality condition for majority of members of the Board in primary and secondary schools and excludes higher education institutions granting recognised State diplomas); Spain and Italy (ENT for opening private universities authorised to issue recognised diplomas or degrees); Hungary and Slovakia (number of schools being established may be limited by local authorities (or in the case of high schools and other higher education institutions by central authorities); Latvia (supply of education services relating to technical and vocational secondary school-type education services for handicapped students); Slovenia (primary schools and nationality condition for majority of members of the Board in secondary and high schools. Only the Czech Republic and Slovakia permit access in respect of other educational services.

Energy Services: Access is granted by all in respect of mining.

Engineering, Integrated Engineering, Architectural, and Urban Planning Services: Access is granted by All Member States. However, in Bulgaria, for projects of national or regional significance, foreign investors have to act in partnership with, or as subcontractors of, local investors. In Latvia, for a foreign architect to receive a licence enabling to engage in business activity with full range of legal responsibility and rights to sign a project, practice of 3 years in Latvia in the field of projecting and university degree are required.

Environmental Services: Access is granted by all.

Equipment Rental/Leasing Services: Access is granted by all except as follows: Lithuania and Sweden (ships); no access is granted anywhere in respect of personal or household goods, except in Greece, Hungary, Latvia and Lithuania,

Financial Services: There is a very extensive list of reservations in relation to insurance and banking and other financial services.

Legal Services: Access is granted by all states in respect of foreign and international law subject to the following: In Austria, foreign lawyers' equity participation and shares in the operating result of any law firm may not exceed 25% and they may not have decisive influence in decision making; in Belgium, quotas apply for appearing before the 'Cour de cassation' in non-criminal cases; In France, access to the profession of 'avocat auprès de la Cour de Cassation' and 'avocat auprès du Conseil d'Etat' is subject to quotas; in Denmark, only lawyers with a Danish licence to practice and law firms registered in Denmark may own shares in a Danish law firm. Only lawyers with a Danish license to practise may sit on the board or be part of the management of a Danish law firm. There is also the requirement of a Danish legal examination in order to obtain a Danish licence. In France, some types of legal form ('association d'avocats' and 'société en participation d'avocat') are reserved to lawyers fully admitted to the Bar in France. In a law firm providing services in respect of French or EC law, at least 75% of the partners holding 75% of the shares must be lawyers fully admitted to the Bar in France; in Hungary, the Commercial presence should take the form of partnership with a Hungarian barrister (ügyvéd) or a barrister's office (ügyvédi iroda), or representative office. In Poland, while other types of legal form are available for EU lawyers, foreign lawyers only have access to the legal forms of registered partnership and limited partnership.



Maintenance and Repair Services: Access is granted by all except in respect of: rail transport equipment in Latvia and in respect of which there is an ENT in Sweden. Sweden also imposes an ENT in respect of the repair of motor vehicles etc.

Management Consultancy Services: Access is granted by all except for arbitration and conciliation services in Hungary.

Medical and Dental Services: including midwifery, nursing: access is granted by all Member States, excluding Austria and Finland, except as follows: ENTs in Germany and Latvia; in Bulgaria and Lithuania, the supply of service is subject to authorisation which is based on a health services plan established in "function of needs", taking into account the population and the existing medical and dental services; in the UK, establishment for doctors under the National Health Service is subject to medical manpower planning; in Slovenia, there is no access for social medicine, sanitary, epidemiological, medical/ecological services; the supply of blood, blood preparations and transplants; autopsy; Austria permits access for dental services and for psychologists and psychotherapists. Likewise, access is granted by all in the case of midwifery services, except in Bulgaria, Finland, Malta, and Slovenia it is subject to an ENT in Lithuania.

Nursing, Psychology and Paramedic Services: access is granted by all, excluding Bulgaria and Malta, except as follows: physiotherapists and paramedical services are excluded in Finland and Slovenia; ENTs in Latvia and Lithuania.

Personnel Search and Placement Services: Access is granted by all except as follows: no access is granted in respect of executive search in Bulgaria, Cyprus, Czech Republic, Germany, Estonia, Finland, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia and Slovenia; no access re placement services in Austria, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia or in Belgium, France or Italy, where there is a state monopoly; no access in the supply of office support personnel in Austria, Bulgaria, Cyprus, Czech Republic, Germany, Estonia, Finland, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia, or Italy, where there is a state monopoly.

Photographic, Packaging, Printing and Publishing, Duplication and Telephone Answering Service; Access is granted by all.

Real Estate Services: Access is granted by all.

Research and Development Services: Access is granted by all except for publicly funded Research and Development services where exclusive rights and/or authorisations can only be granted to EU nationals and to EU juridical persons having their headquarters in the EU.

Scientific and Technical Testing, Advisory and Consulting Service: Access is granted by all.

Telecommunications Consulting Services: Access is granted by all.

Translation Services: Access is granted by all except: Denmark: where authorisation for authorised public translators and interpreters may limit the scope of activity; Poland - the supply of sworn interpretation services is excluded; Bulgaria, Hungary, Slovakia: where official translation and interpretation are excluded.

Transport Services and Services Auxiliary to Transport: These are subject to a very extensive list of reservations and exclusions.

Veterinary Service: In the case of veterinary services, access is permitted by all Member States, except Austria and subject to an ENT in Bulgaria and Hungary. Likewise, access is granted by all



Box 16. Key Points

1. *Mode 2 applies where the customer comes to the place where the service provider is based.*
2. *This mode of supply also covers the situation where vessels, vehicles, equipment or other goods are sent by the consumer based in one country to an adaptor, enhancer or repairer in another.*
3. *The most common occurrence of mode 2 supply in the CARIFORUM countries is in the provision of tourist services to visitors from the EU.*
4. *There are many other opportunities, for example, to provide training, medical, dental, cosmetic, therapeutic, educational and other services to EU citizens that will travel to the CARIFORUM states to receive them.*
5. *Mode 3 involves establishing a commercial presence in another state.*
6. *The commercial presence might involve the services provider setting up a firm or company in that state, alone or jointly with others from his/her own state or with those in the other state.*
7. *Commercial presence usually involves the lease or purchase of premises.*
8. *Many EU Member States restrict the purchase of land or real estate.*
9. *There may also be residency requirements, and in a few cases, nationality requirements for the managing director, directors or auditors of any company established.*
10. *It should be noted that access is permitted unless reservations are specified.*

If the professional service provider or group of providers decides to set up a commercial presence in the Member State, s/he/they need to consider what type of presence they want to establish. The most obvious way is to establish a company in the Member State but, as an alternative, foreign businesses can establish a presence there, for example, by setting up a representative office.

Box 17. Setting up a Representative Office

Consideration may be given to setting up a representative office in one or more EU Member States to represent the Coalition of Service Providers or other groups of professionals aiming to export services to that country. These act as liaison offices; seeking out opportunities for their members; networking with counterparts and potential clients; marketing and supplying information on the services available; facilitating visits by members; promoting the formation of projects for investment; providing information to members to familiarise them with the market and the business culture of the Member State where the office is located.

Registering a foreign company or entity's representative office in the UK, for example, has several benefits in the form of tax breaks. The UK government allows representative offices to carry out their designated functions without charging any tax as long as the representative office does not go beyond the activities mentioned in the previous paragraph and carry on a trade, and, if this happens the onus is on the company to inform the tax authorities (HMRC) of these changes



The most common way to establish a business in most EU Member states is through one of the following, or a version thereof:

- branch
- place of business
- partnership
- limited partnership
- limited liability partnership
- joint venture
- European public limited company (SE)

Establishing a Commercial Presence in the UK

Many foreign entrepreneurs entering the UK market register a branch or place of business as an overseas company. Some companies receive tax breaks and government development grants by continuing to be incorporated in their home country while they attempt to establish a UK operation. The fact that a foreign company is carrying on business in Great Britain does not automatically mean that the company has to register with Companies House. However, the Companies Act 2006 requires every overseas company which establishes some

type of place of business in Great Britain⁷ to deliver certain documents to Companies House. For this purpose, a “place of business” is a premise where there is a physical or visible indication that the company may be contacted there. An overseas company also has to register if it habitually conducts business from a particular location in Great Britain even if there is no physical sign of the company’s connection with it.

It has long been a requirement that “overseas companies” establishing a “place of business in Great Britain” have to comply with certain registration requirements at the companies’ registry either in England and Wales or in Scotland. Since 1993, there has been a separate set of provisions which apply where an overseas company opens a “branch” in Great Britain (i.e. England and Wales and Scotland).

It should be noted that where a foreign company has created a presence in some way which is neither a branch nor a place of business, no registration requirements apply. That is the case with representative offices: see above.

In some cases, setting up a branch office may be a suitable means of establishing a presence in the UK. A branch will have to be registered with Companies House but generally is subject to fewer reporting requirements and formalities than a limited company. The accounts of an overseas company, including the UK branch accounts, have to be filed with Companies House for public view annually. It should be remembered that a UK branch does not provide the limited legal liability status in the UK afforded by a UK limited company.

Where there is no physical location in Great Britain, registration is not required. For example, an independent agent who conducts business on behalf of the company is not a place of business of an overseas company. Neither is an occasional location such as a hotel where a director may conduct business during periodic visits to the UK.

The length of time to set up a business in the UK is 13 days. The cost is £310.

Box 18. Example

Jamaica Producers Group (JP), has an established presence in Newport, South Wales. It operates a logistics company in the UK, offering full service shipping and logistical service between the UK and the entire Caribbean; and JP Europe continues to operate in the prepared food markets in mainland Europe.

Establishing a Commercial Presence in Estonia

If a foreign commercial undertaking wants to permanently offer services in its own name in Estonia, it must register that branch in the Commercial Register and must obtain a license for the branch

(filiaal). All entities not registered in the Commercial Register (e.g. permanent establishments) must be separately registered with the Tax Authorities. As the branch is not a legal person, the foreign company is liable for the obligations of the branch. To register a branch, the application must contain the same data

⁷ Great Britain: England, Scotland and Wales. The UK is the United Kingdom of Great Britain and Northern Ireland.



about the branch and the parent company as for a public or private limited company. The application also has to state the country under whose jurisdiction the company operates.

The foreign company must appoint a director or directors for the branch and they must be a natural person with active legal capacity. The residence of at least one director must be in Estonia. A bankrupt person is not eligible to be appointed a director. If the branch or company conducts banking activities in Estonia it will need a foreign investment licence from the Council of the Bank of Estonia.

The branch must maintain separate records for its transactions from those of the parent business and these must provide a true and fair basis for determination of the income and expenses attributable to the branch and it must generally follow the Estonian Accounting Law. There are, in that law, minor exceptions stipulated as applicable solely to branches of foreign companies (e.g. the branch is not required by law to have a statutory audit performed).

There are limitations on the acquisition of land and real estate by foreign investors in Estonia and at least one half of the members of the management board of a company must have their residence in the EU.

The length of time to set up a business in Estonia is 7 days. The cost is €140 in person or €190 online.

Establishing a Commercial Presence in France

In general, anyone can set up in business in France and there is no minimum capital requirement, except where establishing a public limited company which requires a minimum share capital of €37000. In 2003, the Economic Initiative Law (La loi pour l'initiative économique) simplified the administrative procedures for setting up in business and lightened the tax burden. In 2005, another law was passed to provide support to SMEs (La loi en faveur des PME du 2Août 2005). The objectives of this law were to ensure the durability of newly created and existing enterprises; improve conditions for passing on and preserving know-how and employment; and to sustain the growth of SMEs. The Ministry of Small and Medium Enterprises set out 50 measures to help SMEs. There is a one-stop shop for entrepreneurs i.e. the business start-up centre (Centre des formalités des entreprises - CFE) and France has shortened the time needed to set up a new business to less than a week. It also reduced the average cost of setting up a new business to € 84.

The CFEs are organized according to the type of business, one of which is for independent professionals. An entrepreneur can choose between two kinds of legal structure: sole trader (entreprise individuelle - EI) and company (société).

A CARIFORUM professional, group of professionals or a business may open a representative office in France. This enables the professional(s)/ business to make contacts on the spot, provide advertising, and supply the business with market information. However, the representative office may not engage in any trade activity.

A branch ("sub-office") is a secondary establishment. It can engage in trade activity and thus facilitate relations with customers. Nonetheless, as it has no legal autonomy, it acts in the name of and on behalf of the parent business.

A person wishing to establish a business in France must have a right of residence. The resident's permit automatically gives the holder the right to work. To have this permit the non-EU professional must prove that they have enough financial resources to live in France and have complete health insurance. Certified accountants, auditors and architects must also have professional liability insurance.

A professional service provider may practice his/her activity in business premises or at his/her home. If they do the latter the activity must not cause a nuisance to neighbours e.g. the frequent passage of customers.

France imposed a number of general restrictions under the EPA. Foreign purchases exceeding 33.33% of the shares or voting rights in an existing French enterprise, or 20% in publicly quoted French companies, are subject to the following regulations:

- investments of less than €7.6m in French enterprises with a turnover not exceeding €76m are free, after a delay of 15 days following prior notification and verification that these amounts are met;
- after a period of one month following prior notification, authorisation is tacitly granted for other investments unless the Minister of Economic Affairs has, in exceptional circumstances, exercised its right to postpone the investment.

Foreign participation in newly privatized companies may be limited to a variable amount, determined by the government of France on a case by case basis, of the equity offered to the public. For establishing in certain commercial, industrial or artisanal activities, a specific authorisation is needed if the managing director is not holder of a permanent residence permit.

The length of time to set up a business in France is 5 days. The cost is €84.

Establishing a Commercial Presence in Germany

In Germany, generally, except for freelance professionals (e.g. architects and accountants), businesses have to register with the local trade office (Gewerbeamt). The minimum capital requirements depend on legal form of the business. The bonding/insurance/financial guarantees requirements depend upon the particular professions.

The professional services provider can set up in business as a sole trader or in partnership. It is also possible for a professional service provider to set up in business as a limited liability company (Gesellschaft mit beschränkter Haftung – GmbH).



The length of time to set up a business in Germany is 19 days. The cost is €31.

Establishing a Commercial Presence in Italy

The basic rules for establishing a professional undertaking in Italy is the same for all types of service providers and does not depend on the particular field of services provided. The exception is in respect of accountants, auditors and book-keepers which may only set up in business as sole traders with unlimited liability.

In practice, the vast majority of engineers, architects, management consultants and other professionals also establish themselves as sole traders. Nonetheless, Italian Law permits them to establish themselves as a partnership or as part of a company.

Italy imposes limitations on acquisition of land and real estate by foreign investors and access to industrial, commercial and artisanal activities is subject to a residence permit and specific authorisation to pursue the activity.

The length of time to set up a business in Italy is 10 days. The cost is between €1069.46 and €1054.08.

Establishing a Commercial Presence in the Netherlands

A CARIFORUM professional wishing to establish a presence in the Netherlands will need to be registered in the Trade Register at the Chamber of Commerce. In the Netherlands, the main types of business undertakings are the sole tradership, a partnership under common firm (Vennootschap Onder Firma -VOF), limited partnership (Commanditaire Vennootschap – CV) unlimited partnership (Maatschap), private limited liability company (Besloten Vennootschap) and public limited liability company.

A partnership is the most common form of business undertaking established by professions in the Netherlands. Each partner is personally liable for the contracts and other obligations that he/she enters into as a provider of professional services. Those contracts are with the individual partner and not the firm. The partners are jointly and severally liable for the debts of the firm itself. For tax purposes, each partner tends to be considered by the tax authorities as a self-employed person and they pay income tax on their share of the profits. They may be entitled to the self-employed persons' tax allowance.

The length of time to set up a business in the Netherlands is 11 days. The cost is €2054.34.

Establishing a Commercial Presence in Spain

In Spain, as elsewhere, the main types of business undertakings are the sole tradership, unlimited partnership, limited partnership, private limited liability company and public limited liability company. There are limitations on acquisition of land and real estate by foreign investors.

The length of time to set up a business in Spain is 56-71 days. The cost is €1113.

Box 19. Key Points

1. *The most common way to establish a business in most EU Member states is through one of the following: a branch; partnership; limited partnership; limited liability partnership or joint venture.*
2. *A CARIFORUM professional or group of professionals might establish a representative office in an EU Member State.*
3. *The representative office acts as a liaison: it may not engage in the supply of services. It is not, generally subject to corporate taxes.*
4. *A CARIFORUM company may establish a branch office.*
5. *Branch offices have to be registered in the UK and submit their and their head office accounts but are not subject to the full rigours of accounting disclosures.*
6. *Where a foreign company has created a presence in the UK in some way which is neither a branch nor a place of business, no registration requirements apply.*
7. *The length of time to set up a business in the UK is 13 days. The cost is £310.*
8. *If a foreign commercial undertaking wants to permanently offer services in its own name in Estonia, it must register that branch in the Commercial Register and must obtain a license for the branch (filiaal).*
9. *Estonian Law requires that at least one half of the members of the management board of a company must have their residence in the EU.*
10. *The length of time to set up a business in Estonia is 7 days. The cost is €140 in person or €190 online.*
11. *In general, anyone can set up in business in France and there is no minimum capital requirement, except where establishing a public limited company which requires a minimum share capital of €37000.*
12. *There is a one-stop shop for entrepreneurs and France has shortened the time needed to set up a new business to less than a week. The cost is €84.*
13. *Most professional service providers in Germany are established as sole traders or as partnerships. They must register.*
14. *The length of time to set up a business in Germany is 19 days. The cost is €31.*
15. *The vast majority of professionals in Italy establish themselves as sole traders. Nonetheless, Italian Law permits them to establish themselves as a partnership or as part of a company. In any case, they must register.*
16. *The length of time to set up a business in Italy is 10 days. The cost is between €1069.46 and €1054.08.*
17. *A partnership is the most common form of business undertaking established by professions in the Netherlands. They must register with the Chamber of Commerce.*
18. *The length of time to set up a business in the Netherlands is 11 days. The cost is €2054.34.*
19. *The length of time to set up a business in Spain is 56-71 days. The cost is €1113.*

Mode 4: Presence of Natural Persons

The EU Member States have granted temporary market access and national treatment under Mode 4 for business persons and employees of CARIFORUM firms to enter the EU to supply services. Those permitted to enter are:

- Key personnel – business visitors responsible for setting up a commercial presence and those involved in intra-corporate transfers;
- Graduate trainees;



- Business services sellers;
- Short term visitors for business purposes;
- Contract services suppliers (CSS);
- Independent professionals (IP).

Those entering for business purposes may only do so in order to:

- Engage in research and design.
- Undertake marketing research.
- Attend or provide training seminars.
- Attend trade fairs and exhibitions.
- Negotiate sales of services.
- Negotiate the purchase of services.
- Make arrangements for tours, in the case of tourism personnel.

Independent Professionals (IP) or self employed professionals have access to the EU in 11 sectors. Access is also granted to graduate trainees.

Certain conditions still apply, such as the Economic Needs Tests (ENTs) but there are no restrictions on the number of service suppliers that may enter the EU market.

The following general reservations do apply, however, across all services sub-sectors:-

- Austria and Sweden require that managing directors of companies have to be resident in the country.
- In Bulgaria and Hungary, economic needs tests are applied with respect to graduate trainees.
- Finland imposes nationality and residency requirements for the managing director of a company.
- In France, the managing director of a company needs specific authorisation if he/she does not have a residence permit.
- Romania requires a company's auditors and their deputies to be Romanian.

Whether entering as an employee or as independent professional, the person still must satisfy the entry and visa requirements of the host Member State.

Box 20. Sub-sectors Opened to CARIFORUM Firms to Bring in CSS

Accounting and bookkeeping services: ENTs are applied by Bulgaria, Czech Republic, Denmark, Finland, Greece, Hungary, Latvia, Lithuania, Malta, Romania, and Slovakia. Austria and Hungary have nationality and residency requirements respectively.

Architectural services: ENTs apply in Austria, Belgium, Finland, Germany, Italy, Poland and Spain and a number of the newer EU Member States. .

Engineering services: same restrictions as for Architectural services.

International law and Foreign Law: ENTs apply in Belgium, Czech Republic, Denmark, Finland, Hungary, Latvia, Lithuania, Malta, Romania, Slovakia and Slovenia.

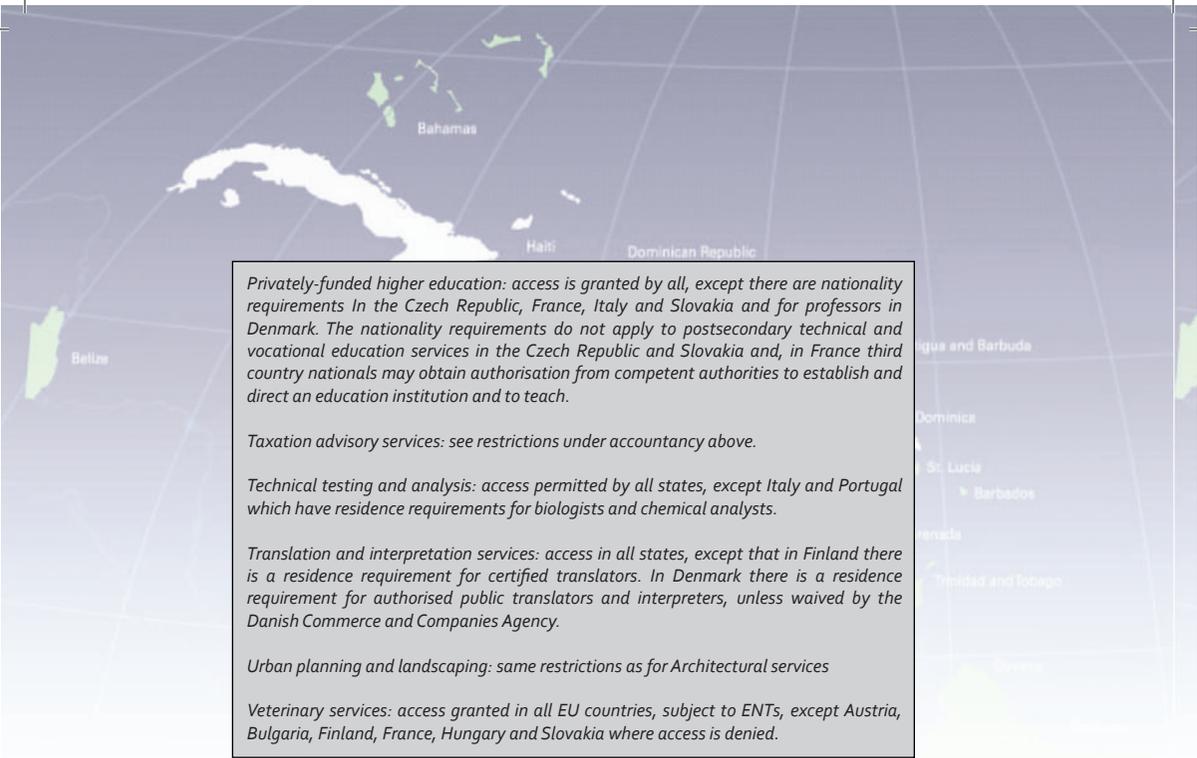
Maintenance and repair of equipment: access granted in all EU countries, except that Malta has a nationality requirement in respect of vessels; Latvia has a nationality requirement re rail equipment. No access throughout the EU, for maintenance and repair of motor vehicles, motorcycles and snowmobiles. There is a nationality condition for specialists and for graduate trainees, likewise for the maintenance and repair of metal products.

Medical and dental services: access has been granted in all EU countries, subject to ENTs, except Austria, Bulgaria, Finland, France, Greece, Hungary, Latvia, Lithuania and Slovakia. In Austria, access is granted to psychologists and dentists.

Midwives services: access granted in all EU countries, except Austria, Bulgaria, Finland, France, Hungary and Slovakia.

Nursing: access granted in all EU countries, except Austria, Bulgaria, Finland, France, Hungary and Slovakia.

Physiotherapy and paramedical services: access granted in all EU countries, except Bulgaria, Finland, France, Hungary and Slovakia.



Privately-funded higher education: access is granted by all, except there are nationality requirements in the Czech Republic, France, Italy and Slovakia and for professors in Denmark. The nationality requirements do not apply to postsecondary technical and vocational education services in the Czech Republic and Slovakia and, in France third country nationals may obtain authorisation from competent authorities to establish and direct an education institution and to teach.

Taxation advisory services: see restrictions under accountancy above.

Technical testing and analysis: access permitted by all states, except Italy and Portugal which have residence requirements for biologists and chemical analysts.

Translation and interpretation services: access in all states, except that in Finland there is a residence requirement for certified translators. In Denmark there is a residence requirement for authorised public translators and interpreters, unless waived by the Danish Commerce and Companies Agency.

Urban planning and landscaping: same restrictions as for Architectural services

Veterinary services: access granted in all EU countries, subject to ENTs, except Austria, Bulgaria, Finland, France, Hungary and Slovakia where access is denied.

Conditions for entry to EU as CSS

This applies to the employees of a CARIFORUM business that does not have a commercial presence or a permanent office in the EU but which has a contract to supply services in an EU Member State. These employees are referred to as “Contractual Service Suppliers” (CSS) and they are permitted to enter the Member State to provide those services subject to certain conditions. The employee:

- must have been employed for at least the preceding year by a CARIFORUM firm, which has obtained a contract of no more than 12 months’ duration to provide services in an EU Member State;
- must have been employed by the CARIFORUM firm for at least one year immediately preceding the date of submission of the application for a visa and temporary work permit to supply services and the employee should have at least three years professional experience in that particular activity;
- must have a university degree or equivalent qualification, and professional qualifications where required by law or applicable regulations to undertake the particular activity. This does not apply to chefs de cuisine or fashion models;
- must be paid by their employer in their home country during their stay in the country in which the service is being supplied. This means that their CARIFORUM employer remains responsible for their remuneration. This has the advantage that they, nor their employer have to pay the Member State’s taxes, national insurance or other deductions in respect of their employee;

- is only permitted temporary entry into that Member State for a cumulative period not exceeding six months (or 25 weeks in Luxembourg) during a 12-month period, or for the duration of the contract, whichever is less. The employee may enter that Member State on a number of occasions during any 12-month period provided that the total time spent in the country during that period does not exceed six months;
- may only engage in the specific contracted service activity and may not engage in other commercial activities (e.g. an accountant cannot enter a Member State to provide accountancy services and then decide to provide translation services in order to earn extra income).

The number of employees sent by the CARIFORUM firm must not exceed the number necessary to perform the services required by the contract.

It should be noted that the EPA-related commitments with respect to CSS are subject to transitional periods for Bulgaria and Romania where they do not come into force until 1 January 2014.

Conditions for entry to EU as an Independent Professional

Box 21. Sub-sectors Opened to CARIFORUM Independent Professionals

Accountancy and bookkeeping services: Cyprus, Germany, Estonia, Spain, Ireland, Italy, Luxembourg, Netherlands, Poland, Portugal, Slovenia, Sweden and the UK have no reservations. In Austria, the employer must be a member of the relevant professional body in the home country where such body exists. In France there is an authorisation requirement and ENTs in Belgium, Bulgaria, Czech Republic, Denmark, Greece, Finland, Hungary, Lithuania, Latvia, Malta, Romania and Slovakia.

Architectural services: ENTs apply in Austria, Belgium, Finland, Germany, Italy, Poland and Spain and a number of the newer EU Member States.

Advertising: No reservations in Cyprus, Germany, Estonia, Spain, France, Ireland, Italy, Luxembourg, Netherlands, Poland, Portugal, SI, Sweden and the UK. ENTs in Austria, Bulgaria, Czech Republic, Denmark, Greece, Finland, Hungary, Lithuania, Latvia, Malta, Romania and Slovakia. An ENT is required in Belgium, except for CSS when the annual wage is above the amount defined by the relevant laws and regulations.

Computer and related services: No reservations from Cyprus, Germany, Estonia, Greece, France, Ireland, Luxembourg, Malta, Netherlands, Portugal, Slovenia, Sweden. Spain. Italy and Poland require ENTs for IPs, Latvia requires an ENT for CSS. In Belgium there is an ENT, except for CSS when the annual wage is above the amount defined by the relevant laws and regulations. In Denmark, there is an ENT except for CSS stays of up to three months. Austria, Bulgaria, Czech Republic, Finland, Hungary, Lithuania, Romania, Slovakia and the UK have ENTs for CSS and IPs.

Engineering services: ENTs apply in Austria, Belgium, Finland, Germany, Italy, Poland and Spain and a number of the newer EU Member States.

International law and Foreign Law: ENTs apply in Belgium, Czech Republic, Denmark, Finland, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Spain.



Management consulting services: No reservations in Cyprus, Germany, Estonia, Greece, France, Ireland, Latvia, Luxembourg, Malta, Netherlands, Portugal, Slovenia, Sweden or the UK. ENTs required by Austria, Bulgaria, Czech Republic, Finland, Lithuania, Romania, Slovakia and Hungary, and in the latter arbitration and conciliation services are excluded. In Denmark requires an ENT except for CSS stays of up to three months. In Belgium there is an ENT, except for CSS when the annual wage is above the amount defined by the relevant laws and regulations.

Medical and Dental Services: No reservations in Sweden. ENTs required in Belgium, Cyprus, Czech Republic, Germany, Denmark, Estonia, Spain, Ireland, Italy, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovenia and the UK. No commitments from Bulgaria, Greece, Finland, France, Hungary, Lithuania, Latvia, Slovakia or Austria, except in the latter case, access is permitted to psychologists and dental services on satisfaction of an ENT.

Market research and opinion polling: No reservations in Cyprus, Germany, Estonia, France, Ireland, Luxembourg, Netherlands, Sweden or the UK. ENTs required by Austria, Bulgaria, Czech Republic, Denmark, Greece, Finland, Lithuania, Latvia, Malta, Romania, Slovenia and Slovakia. ENTs for IPs in Spain, Italy and Poland.

Midwifery Services: no reservations for Sweden. ENTs required for Austria, Belgium, Cyprus, Czech Republic, Germany, Denmark, Estonia, Greece, Spain, Ireland, Italy, Lithuania, Latvia, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovenia and the UK. No commitments from Bulgaria, Finland, France, Hungary or Slovakia. In Belgium, ENTs, except for CSS when the annual wage is above the amount defined by the relevant laws and regulations. In Lithuania, Hungary and Portugal public opinion polling is excluded.

Nurses, Physiotherapists and Paramedics: no commitments from Bulgaria, Finland, France, Hungary or Slovakia. ENTs required for Austria, Belgium, Cyprus, Czech Republic, Germany, Denmark, Estonia, Greece, Spain, Ireland, Italy, Lithuania, Latvia, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovenia and the UK.

Research and development services: A hosting agreement with an approved research organisation is required for all Member States. The following require an ENT: the Czech Republic, Denmark and Slovakia.

Taxation Advisory Services: No reservations in Cyprus, Germany, Estonia, Spain, France, Ireland, Italy, Luxembourg, Netherlands, Poland, Slovenia, Sweden or the UK. In Belgium, ENTs are required, except for CSS when the annual wage is above the amount defined by the relevant laws and regulations. In Austria, the employer must be member of the relevant professional body in the home country where such body exists. In France, there is an authorisation requirement. No commitment by Portugal and there is a residence requirement in Hungary.

Translation and interpretation services: No reservations in Cyprus, Germany, Estonia, France, Luxembourg, Malta, Netherlands, Portugal, SI, Sweden or the UK. ENTs required by Austria, Bulgaria, the Czech Republic, Denmark, Finland, Hungary, Ireland, Latvia, Romania and Slovakia. Spain, Italy, Greece and Poland impose ENTs for IPs., Latvia for CSS. In Belgium, ENTs are required, except for CSS when the annual wage is above the amount defined by the relevant laws and regulations.

Urban planning and landscaping: ENTs apply in Austria, Belgium, Finland, Germany, Italy, Poland and Spain and a number of the newer EU Member States.

Veterinary services: No commitments from Austria, Bulgaria, France, Hungary, Latvia or Slovakia. An ENT must be satisfied for entry to Belgium, Cyprus, Czech Republic, Germany, Denmark, Estonia, Greece, Spain, Finland, Ireland, Italy, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovenia, Sweden and the UK.

These rules apply to an independent professional (IP) from a CARIFORUM state that is a self-employed professional, who is an individual⁹ who does not have an established business office in the EU but who has a contract to supply services in an EU Member State. That IP may travel to the EU to provide those services subject to following conditions, that is that the IP:

- must have obtained a contract to supply services for a period not exceeding twelve months;
- must have a university degree or equivalent qualification; at least six years professional experience in the relevant activity; and, where required by national regulations, an appropriate professional qualification;
- is permitted temporary entry into the Member State for a cumulative period not exceeding six months (or 25 weeks in Luxembourg) during a 12-month period or for the duration of the contract, whichever is less. The IP may enter that Member State on a number of occasions during any 12-month period provided that the total time spent in the country during that period does not exceed six months;
- must not engage in commercial activities other than the provision of those services for which s/he was contracted.

As with CSS commitments, the EPA-related commitments with respect to IP are subject to transitional periods for Bulgaria and Romania where they do not come into force until 1 January 2014. In addition, it should be noted that the right to practise a regulated profession in any one EU Member State does not grant an automatic right to practise that profession in another Member State.

Short term Visitors for Business purposes **Box 22. Economic Needs Tests**

CARIFORUM professional services providers may also obtain a temporary entry to EU Member States as a "Short Term Visitor for Business Purposes". Those business purposes are:

The CARIFORUM professional services provider or the EU person/entity with which s/he is contracting needs to demonstrate that a service is not sufficiently offered in that Member State or that that state does not have enough national qualified personal is available. All Member States have data to assist in this.

- to undertake research and design activities;
- marketing research and statistical analysis;
- negotiating contracts on behalf of companies established in the EU;
- participation in training seminars; trade fairs and exhibitions;
- to undertake corporate purchasing functions.

⁹The professional carries out his professional work in his/her own name not as a partner in a firm, director of a company or an employee. In the latter case the CSS rules apply.



This kind of access allows for temporary entry into that Member State for up to 90 days in any 12-month period. This visa does not permit the direct delivery of goods or services whilst the professional services supplier is in that Member State and they may not be remunerated from a source within the host country during their stay. The Short term visitor must not engage in sales to the general public.

Short term Visitors for Business purposes

Box 23. Examples of Visa Requirements

Estonia: EU and EEA citizens do not require a visa. The holders of passports of certain other countries, including Antigua and Barbuda, Barbados and St Kitts and Nevis, do not require a visa to enter Estonia for stays of no more than three months in a 6 month period. Citizens of all other states require a visa to enter Estonia. Cost of a short-term visa 938 EEK (60 €)

Germany: Generally, a foreign national (i.e., a citizen from outside the European Union (EU), the European Economic Area (EEA) and Switzerland who wants to enter Germany needs a visa. When applying for a visa, the foreigner has to state for which purpose it is intended. A foreigner who intends to perform some business activities may apply for a Schengen Travel Visa. It allows foreign nationals to stay up to three month per half a year in Germany for business purposes (Schengen Business Visa). However, to be issued with a Schengen Business Visa does not guarantee to get granted a German national visa with a residence permit for the purpose of taking up employment or running a business. The fee for a national German Visa (valid in Germany for stays of more than 90 days) is €60. A Schengen visa (permitting stays of up to 90 days in Schengen countries) costs € 60.

Spain: EU citizens and citizens from some LATAM countries (with bilateral agreements) do not need any visa. From other countries a visa is required and the cost and time needed varies from country to country. Foreigners not qualifying for the EU or LATAM system require authorization to live and work in Spain, as well as a special work permit (autorizacion de residencia temporal y trabajo por cuenta ajena).

UK: Citizens of the following countries need a visa to enter the UK: Haiti, Jamaica, and Surinam. A person that wants to visit the UK on business purposes, must apply for one of the new business visas. Business visas are only available to those who can prove that they are: attending meetings or conferences; negotiating, arranging or signing trade agreements or contracts; carrying out fact-finding missions or promotional activities; conducting site visits or checking goods or details. A business visa will allow you to come to the UK on business purposes for up to six months. This would be the visa applied for by CARIFORUM CSS and IP's entering under Mode 4. Since 3 March 2009 onwards, Jamaican nationals in transit through the UK are required to obtain a transit visa before they travel to the United Kingdom. Travellers will need to apply for one of two visas: a Visit-in-Transit Visa if seeking to enter the United Kingdom in transit with a connecting flight within 48 hours; or a Direct Airside Transit Visa (DATV) for anyone remaining airside to take a same-day, same-airport connecting flight to another destination.

Architectural services: ENTs apply in Austria, Belgium, Finland, Germany, Italy, Poland and Spain and a number of the newer EU Member States.

Box 24. Key Points

1. Under Mode 4 employees of a CARIFORUM company which has no commercial presence or permanent office in the EU but has a contract to supply services in an EU Member State, can travel to the EU to provide services, under certain conditions (CSS).
2. Entry is permitted for up to six months in a calendar year.
3. In addition, Independent Professionals (IP) or self employed professionals are also permitted access for up to 6 months in each calendar year.
4. Certain conditions still apply, such as Economic Needs Tests (ENTs) but there are no restrictions on the number of service suppliers that may enter the EU market.
5. The CSS must have been employed for at least the preceding year by a company, which has obtained a service contract in an EU Member State for a period of not more than twelve months.
6. The CSS must have been employed by the company for at least one year immediately preceding the date of submission of an application for visas and temporary work permits to supply services and they should have at least three years professional experience in that particular activity.
7. Except for Chef de Cuisine and Fashion Models, persons applying for temporary entry as CSS must have a university degree or equivalent qualification, and professional qualifications where required by law or applicable regulations to undertake the particular activity.
8. The CSS, must be paid by their employer in the home country during their stay in the country in which the service is being supplied. This means that
9. The CSS' CARIFORUM employer remains responsible for their remuneration.
10. All matters related to meeting EU travel requirements and visas remain the responsibility of the CSS or IP.



IV REQUIREMENTS FOR PROVISION OF PROFESSIONAL SERVICES IN THE EU



General Framework

To provide professional services in an EU Member State usually requires that professional to have a specified qualification, possibly a licence and, often, membership of a professional body. It is useful to look at the different mechanisms by which professions and businesses that provide professional services are regulated in the EU. These are: registration; certification; licensing; and occupational licensing. In some countries a different term is used for what in effect is a licence e.g. “warrant” is used in Malta.

- **Registration:**

The professional service providers give their names, addresses and possibly other information to a public agency. This mechanism is more often used with trades and ancillary professions rather than the main liberal professions. It is frequently used, for example, for the practitioners of complementary medicine (acupuncture, herbalists etc.) rather than for mainstream medical practitioners.

In some countries where the requirement to hold a title is based on academic qualifications and/or a professional examination (as is often the case with architects), there may thereafter be a requirement to register with a public authority. In many of the EU countries businesses are required to register in the local trade or commercial register.

- **Certification:**

An agency is empowered to certify to the public that individuals/ or enterprises have satisfied particular requirements that indicate their competence in a particular field. Most such systems have

compulsory registration. In others, however, those who are not certified can still offer their services in competition with certified practitioners but under a different title.

- **Licensing:**

An exclusive right to perform certain tasks is granted to licensed individuals or enterprises. Regulation of this kind is used where poor performance of a particular task is likely to cause considerable harm to clients or to public health and safety; to impose severe costs on consumers; or where the government wishes to control who is to carry out certain functions for the state.

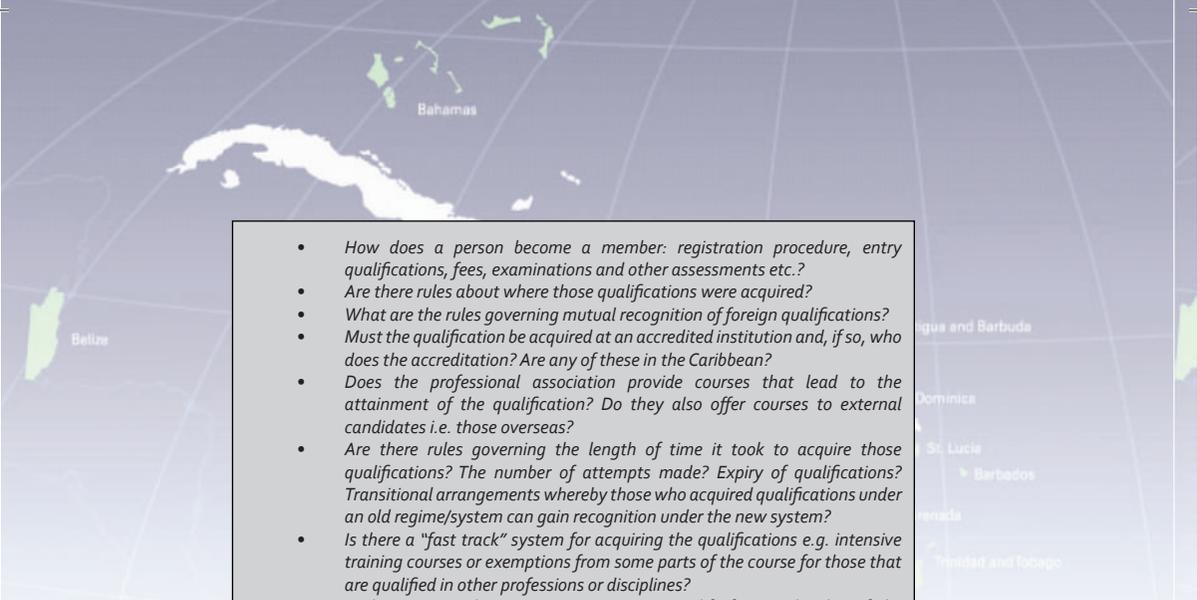
- **Occupational Licensing:**

Where individuals working in a profession are required to hold specific academic degrees, pass certain examinations or have a certain kind or length of experience. Again, the purpose is to protect the public or other businesses from serious harm caused by lack of professional competence.

Box 25. Checklist on the Requirements for Providing Professional Services in an EU Member State

When considering supplying professional services in an EU Member State, the following should be considered:

- *Whether the designation or title of the profession is protected? If so, whether that is that by law, regulation, professional association, educational establishment? For example, it is illegal in England and Wales to call yourself a "solicitor" unless you are a member of the Law Society. It is also illegal to provide certain legal services in England and Wales unless you are a solicitor in good standing and have the appropriate insurance.*
- *How is that title protected and what are the consequences for a person providing those services without that official designation?*
- *Are there specialist sub-designations? E.g. Management Accountant, Public Sector Accountant, Domestic Tour Operator, Trekking Tourist Guide?*
- *If there are specialist designations, how are these regulated/protected? What proof of specialist qualifications/training/experience is needed? Are there specialist professional associations? It should be noted, for example, that CARIFORUM lawyers can enter the UK to provide advice on international law.*
- *Can a corporate body be designated a member of the professions or become a member of the professional association?*
- *Is there associate membership or quasi-membership e.g. paralegals? Can a CARIFORUM professional obtain such membership?*
- *Is there provision for short-term membership or provisions covering short term contracts?*
- *Are there reciprocal arrangements between professional bodies in the EU Member State and those in the CARIFORUM Member State?*
- *What are the qualifications that are needed to become a member of/practice that profession or to provide those professional services?*

- 
- How does a person become a member: registration procedure, entry qualifications, fees, examinations and other assessments etc.?
 - Are there rules about where those qualifications were acquired?
 - What are the rules governing mutual recognition of foreign qualifications?
 - Must the qualification be acquired at an accredited institution and, if so, who does the accreditation? Are any of these in the Caribbean?
 - Does the professional association provide courses that lead to the attainment of the qualification? Do they also offer courses to external candidates i.e. those overseas?
 - Are there rules governing the length of time it took to acquire those qualifications? The number of attempts made? Expiry of qualifications? Transitional arrangements whereby those who acquired qualifications under an old regime/system can gain recognition under the new system?
 - Is there a "fast track" system for acquiring the qualifications e.g. intensive training courses or exemptions from some parts of the course for those that are qualified in other professions or disciplines?
 - Is there a special training requirement to qualify for membership of the profession?
 - Is there a geographical requirement laid down as to where that training or experience took place or was acquired e.g. "in France", "in an urban environment", "in both an urban environment and in at least one project of 12 months duration in a rural setting", "with at least 6 months experience overseas"?
 - Are there accredited institutes, firms or professionals that provide training or work experience?
 - Is there a system of Accreditation for Prior Experience (APE) which exempts candidates from some or all of the requirements for formal qualifications?
 - Are there rules governing the content of the training course?
 - Are there Continuing Professional Development (CPD) requirements?
 - What is the name of the Ministry or State body responsible for regulating the profession?
 - What is/are the name(s) of the professional association(s)? What is their status e.g. State professional associations, private associations, quasi-public bodies?
 - Is membership of a particular/any professional association compulsory? If not, does it provide privileges?
 - Which body issues the certificate/diploma etc of membership of the profession? Are there rules about the display of the certificate/logo etc at business premises, in business stationery, online etc?
 - Is a special licence needed for the provision of all/some of the professional services?
 - Are there rules governing the type of business that a member of the profession can provide services through (sole trader, partner, limited liability company, unlimited liability company etc.)?
 - Are there legal requirements that make it compulsory for individuals, corporate bodies, public institutions to engage the services of particular professions (e.g. company accounts must be audited by a chartered accountant, tour operators must use the services of a licensed tourist guide etc)?
 - Can a person be a member of more than one profession? Can the firm be multi-disciplinary e.g. a firm combining lawyers, architects, engineers and accountants?
 - Are there special rules governing conflict of interest? Activities in which members of the profession are prohibited from engaging in?
 - Are there special rules on disclosure of information; on fees and other charges?
 - What is the disciplinary body for the profession? What are the rules governing disciplinary matters?

Box 26. "Title Protected in Law"

This means that there is legislation or regulations laid down by the State as to who may use this title. Even where a title is not directly protected in law it will usually be criminal offence to pass oneself off as being a member of a professional association or holder of professional qualifications when that is not the case.

Services Directive

The aims of the Services Directive include increased output, reduced prices for services, increased cross-border trade, increased employment opportunities and job creation. A study undertaken for the European Commission concluded that trade could triple if the differences in regulation of services between Member States were to disappear completely (resulting in identical regulation in the EU); and that implementation of the Services Directive could diminish the differences in regulation so much that trade could increase by 30-60%.

The Directive³⁰ applies to services provided to consumers and to businesses by the following:

- distributive trades (including retail and wholesale of goods and services);
- the activities of most regulated professions (such as legal and tax advisers, architects, engineers, accountants, surveyors);
- construction services and crafts;
- business-related services (such as office maintenance, management consultancy, event organisation, debt recovery, advertising and recruitment services);
- tourism services (e.g. travel agents);
- leisure services (e.g. sports centres and amusement parks);
- installation and maintenance of equipment;
- information society services (e.g. publishing – print and web, news agencies, computer programming);
- accommodation and food services (hotels, restaurants and caterers);
- training and education services;

³⁰Directive 2006/123/EC of 12 December 2006 on services in the internal market.

- 
- rentals and leasing services (including car rental);
 - real estate services;
 - household support services (e.g. cleaning, gardening and private nannies);

It expressly does not apply to:

- financial services;
- electronic communications services with respect to matters covered by other community instruments;
- certain transport services;
- healthcare services provided by health professionals to patients to assess, maintain or restore their state of health where those activities are reserved to a regulated health profession;
- temporary work agencies' services;
- private security services;
- audiovisual services;
- gambling;
- certain social services provided by the State, by providers mandated by the State or by charities recognised as such by the State;
- services provided by notaries and bailiffs (appointed by an official act of government).

The Directive makes it easier for a business from one Member State to set up in another. Member States were required by the terms of the directive to simplify procedures and formalities for setting up in business to provide services. This was the general obligation. In addition, it required Member States to do the following:

- Set up “points of single contact”, i.e. one-stop shops through which service providers can obtain all relevant information and complete all procedures relating to their activities.
- Ensure that all these procedures and formalities can be completed at a distance and by electronic means.
- Review and evaluate all their authorisation schemes concerning access to a service activity or the exercise thereof and abolish them or replace them by less restrictive means (such as simple declarations), where they are unnecessary or otherwise

disproportionate. Remaining schemes are to be rendered clearer and more transparent (e.g. conditions have to be made public in advance; criteria have to be clear and non-discriminatory). Furthermore, authorisations have in principle to be granted for an indefinite period and be valid throughout the national territory.

- Abolish discriminatory requirements, such as nationality or residence requirements, and particularly restrictive requirements, such as “economic needs” tests (requiring businesses to prove to the authorities that there is a demand for their services). It also requires the review of other burdensome requirements which may not always be justified (such as territorial restrictions or minimum number of employees).

Although this Directive deals with intra-state trade within the EU and applies to service providers from the EU, nonetheless, some of these provisions are useful for Mode 3 service providers from the CARIFORUM States.

Mutual Recognition of Professional Qualifications (MRQs)

MRQ's From Within the EU Framework

In furtherance of the promotion of trade in services there is increasing mutual recognition of professional qualifications between states. European Union citizens have a right to establish themselves and/or their business and to provide services anywhere in the EU. These are fundamental freedoms established under the Single Market. In order to facilitate this there are EU rules guaranteeing mutual recognition of professional qualifications (MRQs) between Member States. These cover, amongst other things:

- Harmonisation of training requirements in specific sectors which give automatic recognition of professional qualifications. These are mainly to be found in the health professions.
- Mutual recognition which applies to all professions for which Member States require a qualification (“the general system”), with the exception of the specific sectors mentioned above.
- Coordination of the laws of Member States on self-employment, commercial agents, harmonising the civil law on the relationship between agent and principal.

The EU recently reformed the system or MRQs¹¹ in order to:

- make labour markets more flexible;
- further liberalise the provision of services;

¹¹Directive 2005/36/EC

- 
- encourage more automatic recognition of professional qualifications;
 - simplify administrative procedures

The Directive on the Recognition of Professional Qualifications²² covers the whole range of MRQs except those relating to lawyers, commercial agents and activities relating to toxic substances. It came into force throughout the EU on 20 October 2007. The Directive sets out a “General System” and then different provisions for Specific Sectors. These Regulations for the Specific Sectors cover seven professions: doctor, general nurse, midwife, veterinary-surgeons, dental-surgeons and architects. It provides for automatic recognition in these professions by harmonizing minimum training requirements in the EEA²³.

Automatic recognition can also be granted in recognition of demonstrated experience in profession of crafts, commerce and industry sectors. The General System regulates mutual recognition procedures for regulated professions that are not covered under the specific sectors above.

If the qualifications of a CARIFORUM professional has been recognized by an EU Member State and that professional has been practicing in that Members State for at least three years, the qualifications are to be treated as EU comparable qualifications by the other Members States.

The Directive requires that:

- There should be specific rules aimed at extending the possibility of pursuing professional activities under the original professional title. In other words, the professional should, so far as possible, be able to provide his/her services in another Member of State based on the qualification s/he obtained in his/her home country.
- The services provided should be subject to the application of the disciplinary rules of the host Member State “having a direct and specific link with the professional qualifications, such as the definition of the profession; the scope of activities covered by a profession or reserved to it; the use of titles; and serious professional malpractice which is specifically linked to consumer protection and safety”. A German teacher, qualified in France but employed in Ireland would be subject to the disciplinary rules of the Irish Teaching Council.
- “...The Directive does not create an obstacle to the possibility of Member States recognising, in accordance with their rules, the professional qualifications acquired outside the territory of the European Union by third country nationals. All recognition should respect in any case minimum training conditions for certain

²²It also applies to Iceland, Lichtenstein, Norway and Switzerland.

²³European Economic Area comprises the EU Member States and Iceland, Lichtenstein, Norway and Switzerland.

professions. ". Thus, for example, the UK Association of Chartered Certified Accountants (ACCA) The ACCA is a worldwide professional accountancy association with 320000 members and students in 170 countries. It has a network of almost 80 staffed offices and centres around the world. Members are known as "Chartered Certified Accountants". ACCA operates Joint Examination Schemes for CAT in cooperation with a number of bodies including:

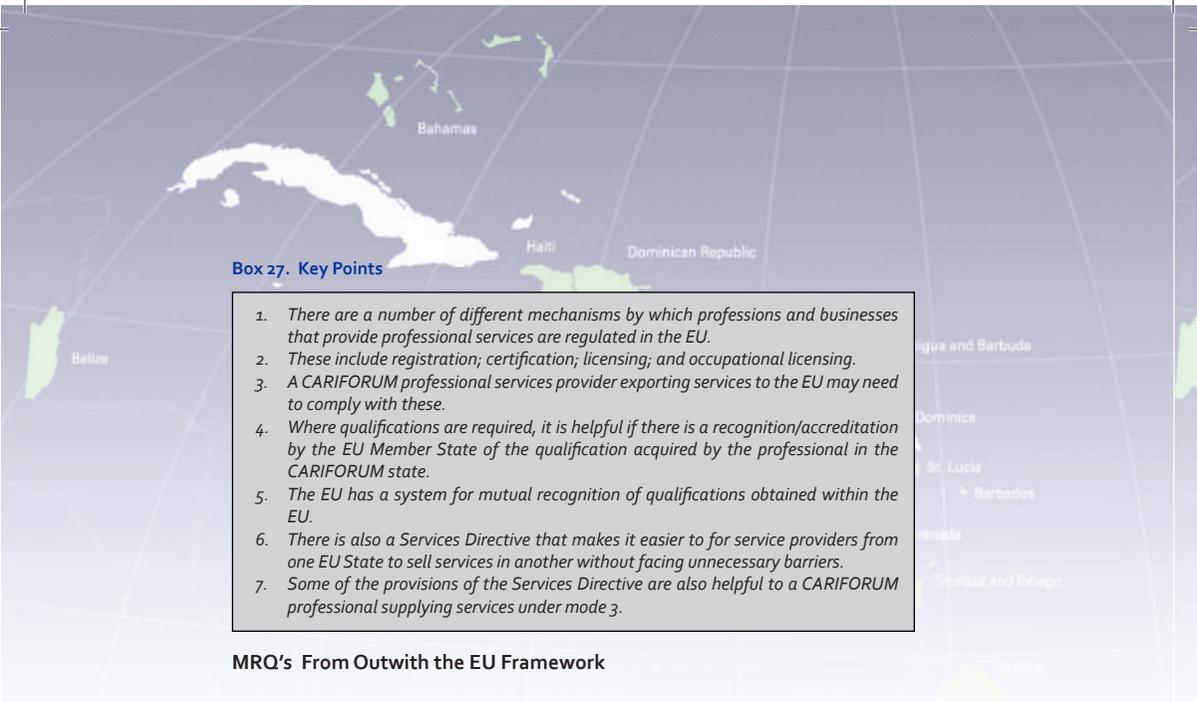
- Institute of Chartered Accountants of Belize (ICA Belize).
- Institute of Chartered Accountants of Guyana (ICAG).
- Institute of Chartered Accountants of Jamaica (ICAJ).
- Institute of Chartered Accountants of Trinidad and Tobago (ICATT).

The Directive contains provisions on the following, amongst other things:

- Professional experience.
- Professional associations.
- Professional cards, certificates, diplomas, etc.
- Contact points for recognition procedures.
- Lifelong learning provisions.
- The effects of recognition.
- The principles of free provision of professional services.
- Exemptions.
- Administrative cooperation.
- Information to be given to the recipient of the service.
- A general system for recognising evidence of training.
- Levels of qualifications.
- Equal treatment of qualifications.
- Conditions for recognition.
- Knowledge of languages.
- Use of academic titles.
- Use of professional titles.

The Directive applies to EU citizens wishing to pursue their profession in another Member State, whether on a self-employed or employed basis. It applies to natural persons not to juridical persons (e.g. companies). It also applies to a person who acquires a professional qualification in another Member State but wants to practice in his/her own state.





Box 27. Key Points

1. There are a number of different mechanisms by which professions and businesses that provide professional services are regulated in the EU.
2. These include registration; certification; licensing; and occupational licensing.
3. A CARIFORUM professional services provider exporting services to the EU may need to comply with these.
4. Where qualifications are required, it is helpful if there is a recognition/accreditation by the EU Member State of the qualification acquired by the professional in the CARIFORUM state.
5. The EU has a system for mutual recognition of qualifications obtained within the EU.
6. There is also a Services Directive that makes it easier for service providers from one EU State to sell services in another without facing unnecessary barriers.
7. Some of the provisions of the Services Directive are also helpful to a CARIFORUM professional supplying services under mode 3.

MRQ's From Outwith the EU Framework

Some countries use the Apostille system for recognising qualifications obtained elsewhere. The Apostille is not a form of accreditation, but it helps to establish that a person has a genuine degree or diploma. It is an official government seal which, when affixed to a document, automatically renders it legal in any country which is a signatory of the Hague Convention 1961. Estonia, France, Germany, Italy, Malta, Netherlands, Spain, Surinam and the UK are Member States of the Convention. Some countries that did not sign the Convention will also respect the Apostille. This is the case of all the CARIFORUM countries (except Guyana, Haiti and Jamaica), though additional attestation might be necessary in some cases.

Box 28. Example of the Apostille System:

The Netherlands follows the "apostil" stamp system . This applies to the following countries: Antigua and Barbuda, Barbados, Belize, Netherlands Antilles, St. Kitts & Nevis and Surinam. For all others the diploma needs to be legalised.

It should be noted that the EPA does not give automatic right to recognition of professional qualifications, even where professional organisations in the EU have already given recognition to qualifications obtained in the CARIFORUM countries (e.g. ACCA accreditation of courses in the case of accountants). However, the EPA provides for recognition agreements and, where there is already accreditation, this can be formalised under the EPA. It should also be noted that what is proposed is mutual recognition, not merely recognition by one party.

Establishing Mutual Reconition Agreements within the EPA Framework

The EPA encourages and facilitates the development of Mutual Recognition of Qualifications Agreements (MRAs) between professional bodies in the CARIFORUM countries and their counterparts in EU Member States. It establishes a process, which provides for CARIFORUM and other regional services providers, through their relevant professional bodies, to negotiate

with EU counterparts the terms for the mutual recognition of qualifications and licensing requirements. It is envisaged that, within three years of the entry into force of the EPA Agreement, these negotiations will begin in a number of priority sub-sectors.

MRAs vary widely and may be concluded between states, state agencies or private sector professional associations. States usually conclude MRAs in respect of the education qualifications of professionals whereas the training aspect and matters relating to professional practice, discipline, CPD, experience etc. are dealt with in MRAs between professional bodies. It is preferable for the professional bodies to work together educational institutes to ensure that the MRA is comprehensive and covers all aspects: education and training etc. These MRAs will greatly enhance the opportunities for CARIFORUM professionals to export their services to the EU.

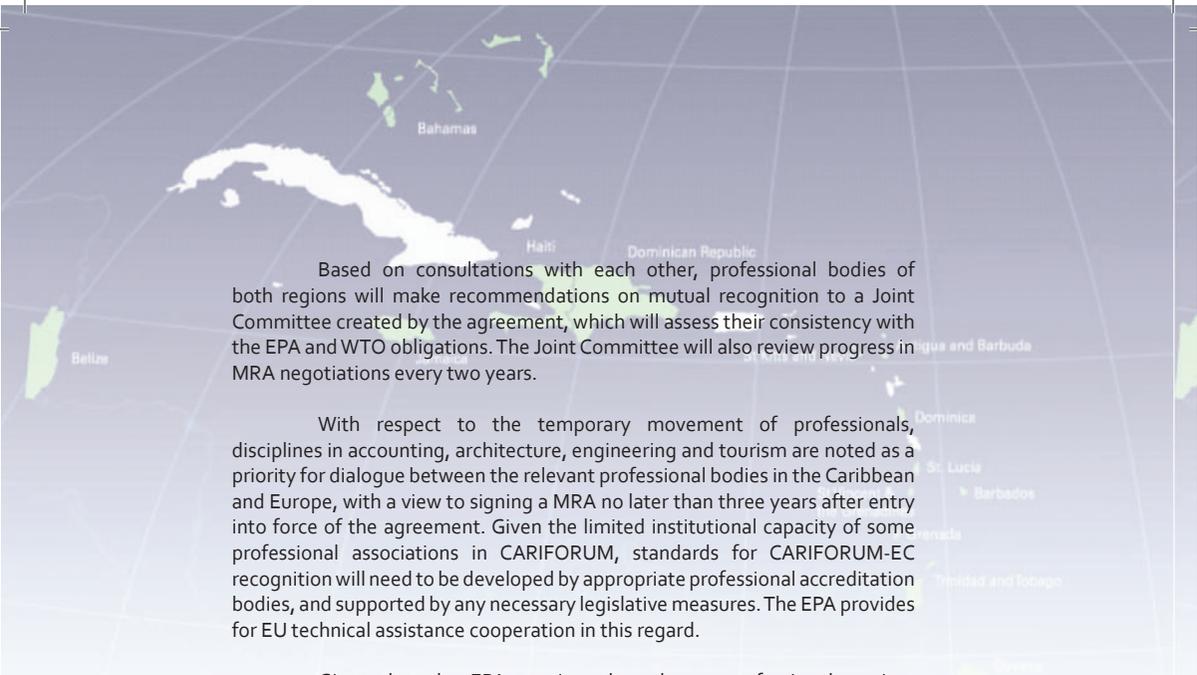
Where there is an MRA in place, when services providers set out to provide services in another country, their qualifications or business' licences must be recognised in that country.

It is imperative that CARIFORUM professionals organize themselves within their professional bodies and develop relationships with their European counterparts in order to undertake effectively such negotiations. The checklist contained in Textbox 25 should help them to prepare for this process. The Report of the Study on Regulatory Regimes in Selected Professional Services in EU Member States⁴⁴ provides substantial details on the qualifications, licences, registrations, certifications need for accountants, auditors, book-keepers, architects, engineers, management consultants, tourist guides, travel agents and tour operators in Estonia, France, Germany, Italy, Malta, Netherlands, Spain and the UK. This information is useful for those professions but also indicative for other professions planning to negotiate MRAs with EU counterparts. The Report also shows existing recognition of qualifications obtained in the CARIFORUM States.

The Caricom Office of Trade Negotiations (OTN) and a number of regional and national associations, including the Caribbean Coalition of Services Industries (C-CSI), have begun working towards the establishment of necessary regional standards. At least one organization, the Caribbean Institute of Certified Management Consultants (CICMC), which is affiliated to the international body, has already established region-wide standards based on internationally recognized criteria.

The EPA provides for the initiation of meetings between professional bodies of CARIFORUM and the EC for the negotiation of mutual recognition agreements no later than three years after entry into force of the EPA. Such an agreement would essentially be to accept each other's methods of accrediting professionals in the respective educational and certification systems. The rights of access of qualified CARIFORUM professionals to the EU services market will not be reduced pending negotiation of MRAs, and CARIFORUM and EU professionals will be required to comply with any European industry standards, qualifications and criteria in the territory of the other Party.

⁴⁴CRNM, *Report of the Study on Regulatory Regimes in Selected Professional Services in EU Member States*, August 2009.



Based on consultations with each other, professional bodies of both regions will make recommendations on mutual recognition to a Joint Committee created by the agreement, which will assess their consistency with the EPA and WTO obligations. The Joint Committee will also review progress in MRA negotiations every two years.

With respect to the temporary movement of professionals, disciplines in accounting, architecture, engineering and tourism are noted as a priority for dialogue between the relevant professional bodies in the Caribbean and Europe, with a view to signing a MRA no later than three years after entry into force of the agreement. Given the limited institutional capacity of some professional associations in CARIFORUM, standards for CARIFORUM-EC recognition will need to be developed by appropriate professional accreditation bodies, and supported by any necessary legislative measures. The EPA provides for EU technical assistance cooperation in this regard.

Given that the EPA requires the relevant professional services bodies in CARIFORUM to begin negotiations with counterparts in the EU within 3 years of the entry into force of the Agreement, Caribbean services professionals and their associations might find it extremely useful to study the regulatory regimes of relevant professions in selected European countries to obtain strategic information, which could be beneficial in subsequent efforts to secure mutual recognition of qualifications.

Meanwhile, regional services professionals should be aware that the internal EU mutual recognition of diplomas only applies to nationals of EU Member States and the right to practice a regulated professional service in one EU Member State does not grant services providers from non- EU countries an automatic right to practise in another Member State.

Box 29. Key Points

1. Some countries use the Apostille system for recognising qualifications obtained elsewhere. This is not a form of MRQ or accreditation, but it helps to establish that a person has a genuine degree or diploma.
2. The EPA encourages and facilitates the development of Mutual Recognition of Qualifications Agreements.
3. States usually conclude MRAs in respect of the education qualifications of professionals whereas the training aspect and matters relating to professional practice, discipline, CPD, experience etc. are dealt with in MRAs between professional bodies.
4. Where there is an MRA in place, when services providers set out to provide services in another country, their qualifications or business' licences must be recognised in that country.
5. Based on consultations with each other, professional bodies of both regions will make recommendations on mutual recognition to a Joint Committee created by the agreement, which will assess their consistency with the EPA and WTO obligations.
6. The Joint Committee will also review progress in MRA negotiations every two years.

V EU MARKETS: OPPORTUNITIES & CHALLENGES

The aforementioned CRNM Study on Regulatory Regimes in Selected Professional Services in EU Member States, sets out the opportunities that arise for certain key professions, provides trade data and outlines the legal, regulatory and administrative framework for these professions in Estonia, France, Germany, Italy, Malta, Netherlands, Spain and the United Kingdom. The professions covered are:

- Accountancy, auditorship and book-keeping
- Architecture.
- Engineering.
- Management Consultancy.
- Tourist Guiding.
- Tour Operations.

The opportunities for trade in the selected countries are presented in the table set out in Appendix 1 of the report. In summary it concluded that

- The most open markets for CARIFORUM suppliers appear to be in Estonia, Italy, Netherlands and the UK.
- France, Germany, Malta and Spain were described as less open but that does not mean that there no opportunities in those countries as the report indicated.
- CARIFORUM professionals may take the opportunities afforded by their capacity to provide services at a lower cost, using modes 1 and 4, to markets where costs are substantially higher e.g. France, Germany, Italy, Netherlands, Spain and the UK.
- The proximity of Estonia to Scandinavia and its links with the former Soviet countries may provide CARIFORUM professionals working with Estonian counterparts with opportunities to penetrate those larger markets.
- The proximity of Malta and its connections with North Africa similarly provides opportunities to tap into those larger markets.
- In addition to the UK, Anglophone CARIFORUM professionals may find it easier to engage in business in markets where English is widely understood such as Estonia, Germany, Malta and the Netherlands.

- Surinamese professionals have an advantage in penetrating the Dutch market based on historical relationships, common language and the Surinamese diaspora in the Netherlands. The same is true for professionals from the Commonwealth countries in respect of the UK.

The study found that due to the general level of maturity of markets in the EU, in all of the selected markets there are minimal or no competitive edges to be gained from the following factors:

- **Industry competitiveness**

Nearly all the professions are extremely competitive so very few opportunities could be found based on monopoly or some other market structure.

- **Quality of service**

In all of the sectors the quality of services provided were rated at least as “fairly good” and mostly as reaching “international standard”.

- **Availability of service providers**

- None of these sectors have a shortage of service providers. Indeed, with the global recession and the use of off-shoring, the converse was usually true.

The report states that the main opportunities are due to the following factors:

- **The sheer size and income of the EU market**

This gives the relatively tiny number of CARIFORUM service providers “a vast array of opportunities to skim off minute pieces of the EU market”. For example, the report shows that UK firms would show indifference towards CARIFORUM consultants entering their market of 80,000 consultants because the addition of Caribbean consultants will not make a statistically significant difference. Their activity will have no significant impact on the EU market but could have a relatively substantial impact on CARIFORUM exports and foreign exchange earnings.

- **Price-related opportunities.**

Due to the fact that in all sectors CARIFORUM prices (fees and charges) are generally lower than those in the EU. Provided that the EU users of CARIFORUM services can verify that the quality of services that they provide is of “international standard” then the price advantage should result in an increased demand.

- **Positive attitude towards joint ventures**

The survey found that in all of the selected industries across the eight countries, there was a positive attitude towards joint ventures. "Joint ventures typically represent a win-win situation that can increase earnings and minimize risks and costs for both parties while not posing major threats to either".

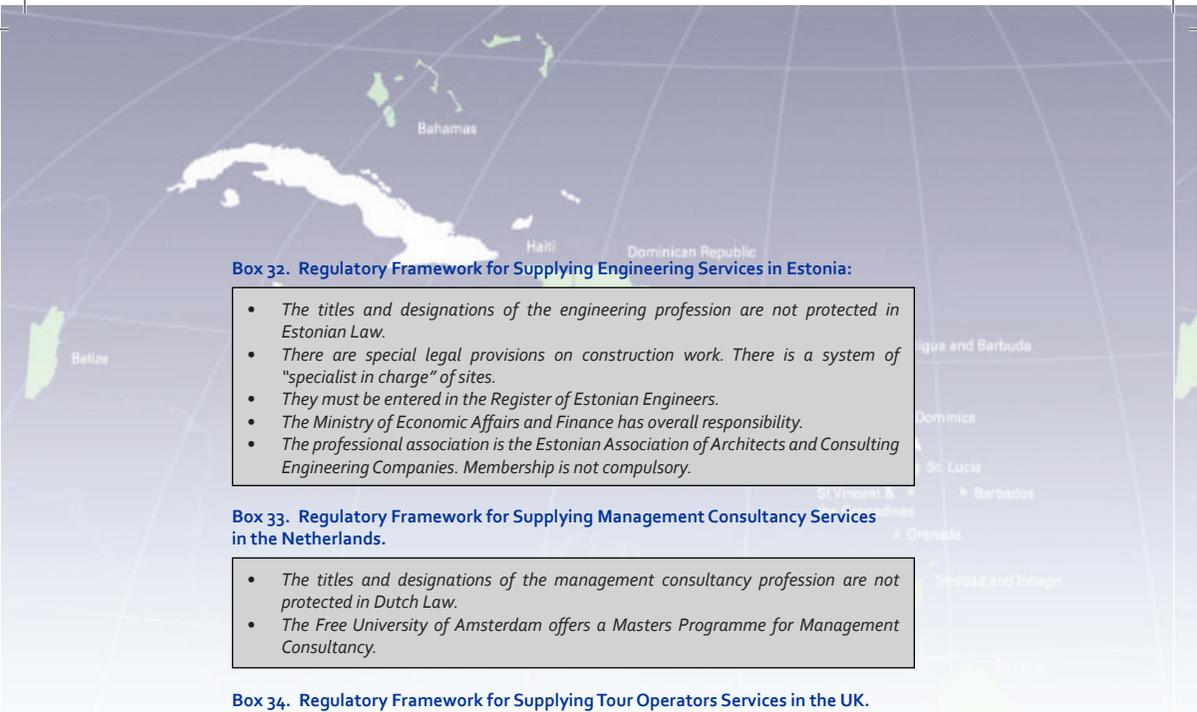
A table setting out the general framework for CARIFORUM citizens wishing to supply professional services in the 8 EU countries is set out in Appendix 2 of the report.

Box 30. Regulatory Framework for Supplying Accountancy Services in France:

- *The titles and designations of the accountancy profession are protected in French Law.*
- *There are accountants and certified public accountants (CPA). The latter generally supervise the work of the former.*
- *Some accounting functions are reserved to CPAs.*
- *There are detailed legal provisions on auditing.*
- *In order to be certified one must have a relevant degree from a State approved institution, 3 years' internship and pass the professional exam. There is no system of accrediting courses. Independent accountants must have professional indemnity insurance.*
- *The Ministry of Economy, Industry and Employment is responsible for the profession. The Ministry of Finance sets the accounting rules.*
- *The Ordre des Experts Comptables (OEC) is the professional body.*
- *Companies can be members of the association but at least 75% of the directors and the controlling capital must be held by certified accountants.*

Box 31. Regulatory Framework for Supplying Architectural Services in Germany:

- *The titles and designations of the architects' profession are protected in German Law.*
- *Each state regulates the profession.*
- *Architects must be members of the Chamber of Architects in their state. These chambers are members of the Federal Chamber of Architects.*
- *There are detailed legal provisions on construction work. There are certain activities, including the signing off of a project that must be done by a qualified architect.*
- *In order to be registered the applicant must have undertaken a 4 year or 8 semester course at university followed by 2 years practical training. Or a 3 year university course and 4 years training.*
- *Once registered there are compulsory CPD requirements.*
- *Architects must have professional indemnity insurance.*
- *The Federal Ministry of Economics and Technology and the Federal Ministry of Food, Transport, Building and Urban Affairs are the ministries with overall responsibility for the regulation of the architects' profession.*



Box 32. Regulatory Framework for Supplying Engineering Services in Estonia:

- *The titles and designations of the engineering profession are not protected in Estonian Law.*
- *There are special legal provisions on construction work. There is a system of "specialist in charge" of sites.*
- *They must be entered in the Register of Estonian Engineers.*
- *The Ministry of Economic Affairs and Finance has overall responsibility.*
- *The professional association is the Estonian Association of Architects and Consulting Engineering Companies. Membership is not compulsory.*

Box 33. Regulatory Framework for Supplying Management Consultancy Services in the Netherlands.

- *The titles and designations of the management consultancy profession are not protected in Dutch Law.*
- *The Free University of Amsterdam offers a Masters Programme for Management Consultancy.*

Box 34. Regulatory Framework for Supplying Tour Operators Services in the UK.

- *The UK mainly relies on self-regulation.*
- *The Package Travel Directive is implemented in UK Law.*
- *There are a number of insolvency protection schemes.*
- *There is no compulsory membership of a professional association, though most are members of ATOC and/or ABTA.*

The report used a scale of 1-10 in indicating an assessment of the factors that would indicate good opportunities for CARIFORUM professionals to do business in that country, with 10 being excellent and 1 being poor. The following scored 8-10:

Estonia

- *Positively disposed to diversity: 8 - "A quite diverse history - Baltic, Scandinavian, Soviet"*
- *Language: 7 - "Most business people speak English".*
- *Proximity to other regions: 10 - "A natural gateway to the former Soviet, Baltic and Scandinavian States".*
- *Persons willing and prepared to coordinate and cooperate: 10 - "Consultants made linkages with Chamber of Commerce which is favourably disposed to coordinating trade missions and conducting matchmaking".*

Opportunities for Accountants, Auditors, Bookkeepers:

- *Different user group: 10 - "Opportunities with Multinationals and foreign private sector because they are two of the main users of accounting & auditing services".*
- *Circumvention of challenges: 10 - "The major challenge faced is high labour costs and competition so there are possible opportunities for CARIFORUM services providers".*



- *Attitude towards joint ventures/partnership: 10* - "Attitude towards joint ventures with foreigners is very positive".
- *Openness and appreciation: 8* - "Attitude towards foreigners entering the market to offer services is quite positive".
- *Opportunities created through EU regulations: 10* - "There are no major restrictive EU regulations".
- *Different Mode opportunities: 10* - "There may be some Mode 1 and 4 opportunities due to high labour costs. User interviews supported the fact that these Modes have already been used".

Opportunities for Architects:

- *Different user groups: 10* - "Opportunities with Multinationals and foreign private sector because they are two of the main users of services".
- *Circumvention of challenges: 10* - "High labour costs and lack of professional competence".
- *Attitude towards joint ventures/partnerships: 10* - "Attitude towards joint ventures with foreigners is very positive".
- *Openness and appreciation: 10* - "Attitude towards foreigners entering the market to offer services is very positive because foreign knowledge is highly valued".
- *Opportunities created through EU regulations: 10* - "There are no special EU regulations or restrictions".

Opportunities for Engineers:

- *Circumvention of challenge: 10* - "The major challenge faced is high labour costs and competition so there are possible opportunities for CARIFORUM services providers."
- *Attitude towards joint ventures/partnerships: 8* - "Attitude towards joint ventures with foreigners is positive".
- *Openness and appreciation: 10* - "Attitude towards foreigners entering the market to offer services is very positive".



Opportunities for Management Consultants:

- *Attitude towards joint ventures/partnerships: 10 - "Attitude towards joint ventures with foreigners is very positive".*
- *Openness and appreciation: 10 - "Attitude towards foreigners entering the market to offer services is very positive".*
- *Willingness to use foreign service providers (user perception): 10 - "Very willing as long as quality and price are competitive".*
- *Opportunities created through EU regulations: 10 - "There are no major restrictive EU regulations".*

Opportunities for Tourist Guides' Services

- *Different user groups: 10 - "Opportunities with foreign private sector and multinational because these amongst the main users of services".*
- *Attitude towards joint ventures/partnerships: 10 - "Attitude towards joint ventures with foreigners is very positive".*
- *Openness and appreciation: 10 - "Attitude towards foreigners entering the market to offer services is very positive".*
- *Opportunities created through EU regulations: 10 - "There are no major restrictive EU regulations".*

Opportunities for Tour Operator Services

- *Different user groups: 10 - "Opportunities with foreign private sector and multinational because these amongst the main users of services".*
- *Attitude towards joint ventures/partnerships: 10 - "Attitude towards joint ventures with foreigners is very positive".*
- *Openness and appreciation: 10 - "Attitude towards foreigners entering the market to offer services is very positive".*
- *Opportunities created through EU regulations: 10 - "There are no major restrictive EU regulations".*

France

- *Proximity to other regions: 10 - "A natural gateway to the rest of the EU and its Caribbean Departments of Guadeloupe and Martinique".*

Opportunities for Accountants, Auditors, Bookkeepers:

- *Industry size: 10 - "A large industry and market".*
- *Pricing opportunities: 10 - "Local prices are higher".*

Opportunities for Architects:

- *Industry size: 10 - "A large industry and market".*
- *Attitude towards joint ventures/partnerships: 10 - "Attitude towards joint ventures with foreigners is quite positive".*
- *Willingness to use foreign service providers: 10 - "Users are quite willing to use foreign suppliers from outside the EU – the quality of the service is what matters".*

Opportunities for Engineers:

- Industry size: **10** - "A large industry and market".
- Pricing opportunities: **10** - "Local prices are higher".
- Attitude towards joint ventures/partnerships: **10** - "Attitude towards joint ventures with foreigners is quite positive".
- Willingness to use foreign service providers: **10** - "Users are quite willing to use foreign suppliers from outside the EU".

Opportunities for Management Consultants:

- Industry size: **10** - "A large industry and market".
- Attitude towards joint ventures/partnerships: **10** - "Attitude towards joint ventures with foreigners is very positive".
- Openness and appreciation: **8** - "Attitude towards foreigners entering the market to offer services is quite positive".
- Opportunities created through EU regulations: **10** - "There are no major restrictive EU regulations".

Opportunities for Tourist Guides' Services

- Different user groups: **10** - "Opportunities with foreign private sector and multinational because these amongst the main users of services".
- Attitude towards joint ventures/partnerships: **10** - "Attitude towards joint ventures with foreigners is very positive".
- Openness and appreciation: **10** - "Attitude towards foreigners entering the market to offer services is very positive".
- Opportunities created through EU regulations: **10** - "There are no major restrictive EU regulations".

Opportunities for Tour Operator Services

- Industry size: **10** - "A large industry and market".
- Attitude towards joint ventures/partnerships: **10** - "Attitude towards joint ventures with foreigners is very positive".
- Openness and appreciation: **10** - "Attitude towards foreigners entering the market to offer services is very positive".
- Willingness to use foreign service providers: **10** - "Users are very willing to use foreign suppliers from outside the EU".
- Opportunities created through EU regulations: **8** - "There seems to be no serious constraints".
- Different Mode opportunities: **8** - Could use Mode 1 (online approaches) to attract more tourists.

Germany

- Language: **10** - "Most people speak English well".
- Proximity to other regions: **8** - "Conveniently located relative to other EU countries".



Opportunities for Accountants, Auditors, Bookkeepers:

- *Industry size: 10 - "A large industry and market with high income".*
- *Openness and appreciation: 8 - "Attitude towards foreigners entering the market to offer services is quite positive".*
- *Different Mode opportunities: 10 - "There may be some Mode 1 opportunities due to high labour costs".*

Opportunities for Architects:

- *Industry size: 10 - "A large industry and market with high income".*
- *Attitude towards joint ventures/partnerships: 8 - "Overall quite favourable towards joint ventures and partnerships".*
- *Different Mode opportunities: 8 - "Mode 1 could be used to provide drawings to EU partners".*

Opportunities for Engineers:

- *Industry size: 10 - "A large industry and market".*

Opportunities for Management Consultants:

- *Industry size: 10 - "A large industry and market with high income".*
- *Circumvention of challenges: 8 - "Getting the confidence of customers is a major challenge so CARIFORUM consultants must plan carefully and should seek matchmaking opportunities".*
- *Attitude towards joint ventures/partnerships: 8 - "Quite amenable to joint ventures".*
- *Openness and appreciation: 8 - "Quite open to foreigners penetrating the market without partnering with locals".*
- *Opportunities created through EU regulations: 10 - "There are no specific EU regulations".*
- *Different Mode opportunities: 10 - "Modes 1, 2 and 4 could be exploited".*

Opportunities for Tourist Guides' Services

- *Industry size: 10 - "A large market with high income".*
- *Circumvention of challenges: 10 - "Training and quality management is a major challenge so well trained multilingual CARIFORUM Tour Guides should have opportunities".*
- *Attitude towards joint ventures/partnerships: 10 - "Very amenable to joint ventures".*
- *Openness and appreciation: 8 - "Seemingly quite open to foreigners penetrating the market without partnering with locals".*
- *Different Mode opportunities: 10 - "Mode 2 could be used by providing tours to visitors to the Caribbean. Mode 3 & 4 could be exploited by setting up in Germany and offering tours to Caribbean and non-EU visitors to Germany".*

Opportunities for Tour Operator Services

- **Industry size: 10** - "A large market with high income".
- **Different user groups: 10** - "Opportunities in all segments of the market so CARIFORUM Tour operators should develop customized packages and sell them to targeted groups. There are significant numbers of German tourists that visit the Caribbean".
- **Circumvention of challenges: 8** - "Getting the confidence of customers is a major challenge so CARIFORUM consultants must plan carefully and should seek opportunities to meet German travel agents".
- **Different Mode opportunities: 10** - "Mode 1 is taking over the Tour Operator market so CARIFORUM tour operators should exploit this Mode and get German tourists to book their vacations and travel directly through online portals".

Italy

- **Positively disposed to diversity: 8** - "The Italians are very proud of their heritage and things Italian however they seem quite open to foreigners visiting and are not averse to foreign goods and services".

Opportunities for Accountants, Auditors, Bookkeepers:

- **Industry size: 10** - "Very large industry and market".
- **Circumvention of challenges: 8** - "How to develop international clientele is the main challenge. Opportunities may be created through joint ventures with CARIFORUM service providers which may help to lower average costs as well as bring the British accounting system to the table".
- **Opportunities created through EU regulations: 8** - "No significant EU regulations or restrictions".

Opportunities for Architects and Engineers:

- **Industry size: 10** - "Very large industry and market".
- **Attitude towards joint ventures/partnerships: 8** - "Attitude towards joint ventures with foreigners is quite positive".
- **Willingness to use foreign service providers (user perception): 10** - "Users are quite willing to use foreign suppliers from outside the EU – the quality of the service is what matters".
- **Opportunities created through EU regulations: 8** - "No significant EU regulations or restrictions".
- **Different Mode opportunities: 8** - "There may be some Mode 1 opportunities for certain activities".

Opportunities for Management Consultants:

- **Industry size: 10** - "Very large industry and market".
- **Circumvention of challenges: 8** - "Main challenge is to develop the international market. CARIFORUM Consultants could forge joint venture relationships with local partners and penetrate new markets together".

- *Attitude towards joint ventures/partnerships: 8* "Attitude towards joint ventures with foreigners is quite positive".
- *Opportunities created through EU regulation: 10* - "There are no apparent major restrictive EU regulations.
- *Different Mode opportunities: 10* "There may be some Mode 1 and 4 opportunities".

Opportunities for Tourist Guides' Services

- *Industry size: 8* - "A large market with high income".
- *Different user groups: 9* - "Foreign entities are amongst the main users of these services – CARIFORUM Tour Guides will have to promote themselves and their importance in improving the tourism experience for visitors to the Caribbean".
- *Different Mode opportunities: 8* - "Could use mode 1 (online approaches) to sell services to Italian tourists and then provide Caribbean Tours (Mode 2)".

Opportunities for Tour Operator Services

- *Industry size: 10* - "A large market with high income".
- *Attitude towards joint ventures/partnerships: 10* - "Attitude towards joint ventures with foreigners is very positive".
- *Openness and appreciation: 10* - "Attitude towards foreigners entering the market to offer services is quite positive".
- *Willingness to use foreign service providers (user perception): 10* - "Users are quite willing to use foreign suppliers from outside the EU".
- *Different Mode opportunities: 8* - "Could use Mode 1 (online approaches) to attract more tourists".

Malta

- *Language: 8* - "Most people speak some English but communication often takes place in Maltese".



- *Proximity to other regions: 10* - "Excellent gateway to North Africa".
- *Persons willing and prepared to coordinate and cooperate: 10* - "Consultants met with a team of professionals who are very willing to coordinate and cooperate in setting up matchmaking opportunities and arranging missions".

Opportunities for Accountants, Auditors, Bookkeepers:

- *Circumvention of challenges: 8* - "How to develop international clientele is the main challenge. Opportunities may be created through joint ventures with CARIFORUM service providers to offer services in the North Africa market".
- *Attitude towards joint ventures/partnerships: 8* - "Attitude towards joint ventures with foreigners is quite negative because most businesses are family owned SMEs. However, since Malta's accession to the EU the Maltese Government has been encouraging joint ventures".

Opportunities for Architects and Engineers:

- *Circumvention of challenges: 10* - "Given the small size of the domestic market the biggest challenge for local Architectural & Engineering firms is to expand their international dimension as well as possibly expand their service portfolio offered to clients.. CARIFORUM architects could look for opportunities and seek local partners to work with in seeking international markets in the rest of the EU and North Africa".
- *Attitude towards joint ventures/partnerships: 8* - "Attitude towards joint ventures with foreigners is quite negative amongst the predominantly small family owned Maltese businesses but the Maltese Government has realized that this is a mindset that needs to be changed now that Malta is in the EU".
- *Willingness to use foreign service providers (user perception): 10* - "In instances where the project is long-term and complex, Maltese businesses are willing to use foreign partners. For example Bridge works, New hospital project etc. "
- *Opportunities created through EU regulations: 8* "No significant EU regulations or restrictions".
- *Different Mode opportunities: 9* - "There may be some Mode 1 opportunities for certain activities especially if work is sought in the rest of the EU or in North Africa".

Opportunities for Management Consultants:

- *Circumvention of challenges: 10*- "Given the small size of the domestic market the biggest challenge for local management consultancy firms is to expand their international dimension as well as possibly expand their service portfolio offered to clients. CARIFORUM Consultants could forge joint venture relationships with local partners and penetrate new markets together, including the nearby North Africa market".

- 
- *Attitude towards joint ventures/partnerships: 8*- "Attitude towards joint ventures with foreigners is quite negative but there are opportunities because the Maltese government has been encouraging this approach since Malta entered the EU".
 - *Willingness to use foreign service providers (user perception): 8* - "Somewhat willing but sceptical. In instances where consultancy required is highly specialised with very little knowledge available locally, Maltese businesses are willing to use foreign suppliers, especially those firms who had assignments in small economies similar to Malta and can understand the local issues. There are joint venture opportunities here for CARIFORUM consultants".
 - *Opportunities created through EU regulations: 10* -"There are no apparent major restrictive EU regulations so this should make it easier for CARIFORUM Consultants to operate in the EU market".
 - *Different Mode opportunities: 10* -"There may be some Mode 1 and 4 opportunities in joint ventures aimed at other EU countries as well as North Africa".

Opportunities for Tourist Guides' Services

- *Different user groups: 9*- "The main users of tourism operator and tour guide services are the individual tourists visiting the island for both business and leisure. The Conference and Incentive market makes up approximately 5% of incoming tourism, with the biggest majority of the business being generated from foreign private entities which have chosen Malta as their country venue and will require the services of both the incoming travel handling agent and also the tour guide".
- *Circumvention of challenges: 8* - "The biggest challenge is the rapid growth of the internet with more internet savvy users preferring to build their own dynamic package and then purchase excursions once in Malta. The players in the industry have to adapt to this new reality.. CARIFORUM Tour Guides could link up with local Tour Guides to offer tours in the rest of EU and the Caribbean".
- *Opportunities created through EU regulations: 8* - "There are no EU regulations or restrictions".
- *Different Mode opportunities: 8* -"Could use mode 1 (online approaches) to sell services to tourists and then provide Caribbean Tours (Mode 2) across the EU."

Opportunities for Tour Operator Services

- *Attitude towards joint ventures/partnerships: 10* - "Attitude towards joint ventures with foreigners is very positive".
- *Openness and appreciation: 10* -"Attitude towards foreigners entering the market to offer services is quite positive".
- *Willingness to use foreign service providers (user perception): 10*- "Users are quite willing to use foreign suppliers from outside the EU".
- *Different Mode opportunities: 8* - "Could use Mode 1 (online approaches) to attract more tourists.

Netherlands

- *Positively disposed to diversity: 8* - "The society seems open and positively disposed to diversity even though there seems to be some recent concerns".
- *Language: 10* - "Most people speak English very well".
- *Proximity to other regions: 9* - "A good gateway to the rest of Europe".

Opportunities for Architects and Engineers:

- *Pricing opportunities: 9* - "Foreign prices are about the same as in rest of EC 15, greater than rest of EC and greater than in CARIFORUM".
- *Attitude towards joint ventures/partnerships: 8* - "Attitude towards joint ventures with foreigners is very positive. Innovation is often greater abroad and new ideas are welcomed".
- *Openness and appreciation: 8* - "Attitude towards foreigners entering the market to offer services is quite positive. Netherlands is considered quite an open economy".
- *Opportunities created through EU regulations: 10* - "There are no major restrictive EU regulations".
- *Different Mode opportunities: 10* - "There are opportunities in Mode 1 and 4 due to higher labour costs".

Opportunities for Tourist Guides' Services

- *Industry size: 8* - "Medium size market and high income".
- *Different user groups: 9* - "Opportunities with foreign private sector and multinational because these amongst the main users of services. Also there is scope for Surinamese tour guides to provide tours to the Surinamese Diaspora".
- *Attitude towards joint ventures/partnerships: 10* - "Attitude towards joint ventures with foreigners is very positive".
- *Openness and appreciation: 10* - "Attitude towards foreigners entering the market to offer services is very positive".
- *Opportunities created through EU regulations: 10* - "There are no major restrictive EU regulations".

Opportunities for Tour Operator Services

- *Different user groups: 10* - "Opportunities with foreign private sector and multinational because these amongst the main users of services. There are also opportunities in providing tours for the large Surinamese Diaspora living in the Netherlands".
- *Attitude towards joint ventures/partnerships: 10* - "Attitude towards joint ventures with foreigners is very positive".
- *Openness and appreciation: 8* - "Attitude towards foreigners entering the market to offer services is very positive".



Spain

Opportunities for Accountants, Auditors, Bookkeepers:

- Industry size: **10** - "Large industry and market".
- Circumvention of challenges: **8** - "Diversification and increase of services offered were the main challenges for existing companies (but the main challenge now is to survive the economic crisis). Opportunities may be created through joint ventures with CARIFORUM service providers which may help to lower average costs as well as bring the British accounting system to the table".

Opportunities for Architects and Engineers:

- Industry size: **10** - "Large industry and market".
- Circumvention of challenges: **8** - "The impact of the global crisis is the major challenge. CARIFORUM professionals could look for cost reducing opportunities and seek local partners to work with"
- Opportunities created through EU regulations: **8** "No specific requirements in relation to fees, but there are requirements about proved experience and qualification".

Opportunities for Management Consultants:

- Industry size: **10** - "Large industry and market".
- Circumvention of challenges: **8** - "Main challenge is to develop the international market. CARIFORUM Consultants could seek project opportunities and forge joint venture relationships with Spanish partners and penetrate new markets together".
- Opportunities created through EU regulations: **10** - "No specific requirements for fees, proved experience & qualification".

Opportunities for Tour Operator Services

- Industry size: **10** - "Large industry and market".
- Different Mode opportunities: **8** - "Could use Mode 1 (online approaches) to attract more tourists".

United Kingdom

- Positively disposed to diversity: **10** – "Diversity is the order of the day in the UK".
- Language: **10** – "Everyone speaks English".
- Proximity to other regions: **10** – "A natural gateway to the entire EU".
- Persons willing and prepared to coordinate and cooperate: **8** – "Consultants have linkages with which are favourably disposed to coordinating training and conducting matchmaking. However, the UK market because of its maturity may be tough to penetrate".

Opportunities for Accountants, Auditors, Bookkeepers:

- **Industry size: 10** - "Large industry and market".
- **Different user groups: 10** - "Opportunities with Multinationals and foreign private sector because they are two of the main users of accounting & auditing services".
- **Circumvention of challenges: 10** - "The major challenge faced is high labour costs and competition so there are possible opportunities for CARIFORUM services providers".
- **Attitude towards joint ventures/partnerships: 10** "Attitude towards joint ventures with foreigners is very positive".
- **Openness and appreciation: 8** - "Attitude towards foreigners entering the market to offer services is quite positive".
- **Opportunities created through EU regulations: 10**- "There are no major restrictive EU regulations".
- **Different Mode opportunities: 10** - "There may be some Mode 1 and 4 opportunities due to high labour costs. User interviews supported the fact that these Modes have already been used".

Opportunities for Architects:

- **Industry size: 10** -"Large industry and market".
- **Different user groups: 10** - "Opportunities with Multinationals and foreign private sector because they are two of the main users of services".
- **Circumvention of challenges: 10** - "High labour costs and lack of professional competence".
- **Attitude towards joint ventures/partnerships: 10** - Attitude towards joint ventures with foreigners is very positive.
- **Openness and appreciation: 10** - "Attitude towards foreigners entering the market to offer services is very positive because foreign knowledge is highly valued".
- **Opportunities created through EU regulations: 10** - "There are no special EU regulations or restrictions"





Opportunities for Engineers:

- Industry size: **10** - "Large industry and market".
- Circumvention of challenges: **10** - "The major challenge faced is high labour costs and competition so there are possible opportunities for CARIFORUM services providers".
- Attitude towards joint ventures/partnerships: **8** - "Attitude towards joint ventures with foreigners is positive".
- Openness and appreciation: **10** - "Attitude towards foreigners entering the market to offer services is very positive".

Opportunities for Management Consultants:

- Industry size: **10** - "Large industry and market".
- Attitude towards joint ventures/partnerships: **8** - "Attitude towards joint ventures with foreigners is fairly positive. UK firms would be interested in Joint Ventures to share work with Caribbean companies in the UK or aligning with Diaspora and other ethnic community".
- Opportunities created through EU regulations: **10** - "There are no major restrictive EU regulations – some former Soviet countries have tried to implement an EU consultant designation but this is being gradually replaced by the CMC qualification".

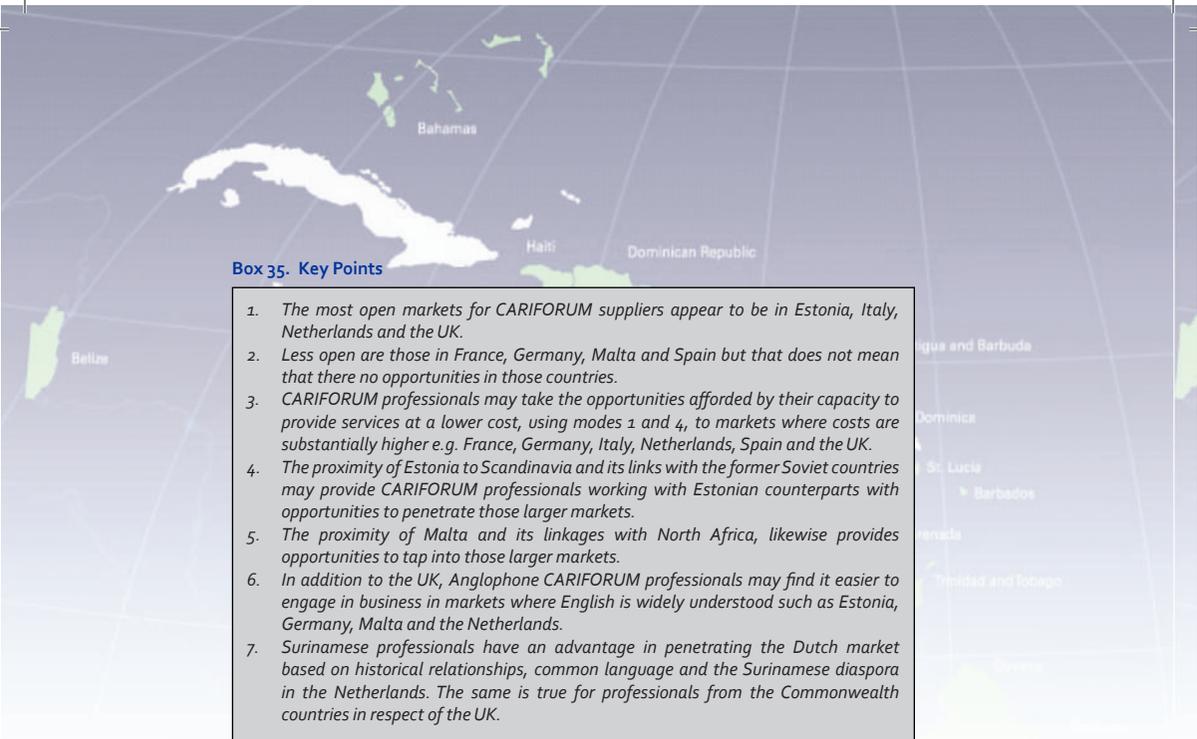
Opportunities for Tourist Guides' Services

- Industry size: **10** - "Large industry and market".
- Industry competitiveness: **10** - "Very competitive – depending where you are, in some areas there are relatively few tour guides. In UK and some EU countries there are no legal guidelines for tour guiding. In UK there is just the Blue Badge. There is a niche for offering tours to Caribbean people".
- Pricing opportunities: **8** - "Pricing is subject to competition law. The UK is upper middle in terms of prices for guides. Note that there are different bases for time, number of persons, language, etc. In the UK it is about £120 for half day and £190 for a full day".
- Different user groups: **8** - "Main user groups were traditionally service tour companies (package tours) who would offer tours from London. Users are now shifting to niche markets and specialty and educational tours. For example, foreign Universities may have a tour in UK. Another niche opportunity is with Caribbean Diaspora as well as those living in the Region for whom travelling is no longer a luxury - so this is an excellent niche opportunity".
- Circumvention of challenges: **10** - "Main challenge to the industry is to champion quality and standards. The EU is very keen on quality and standards. Caribbean Tour Guides should get Blue Badge trained and promote this. Blue Badge training can be done online from the Caribbean as opposed to visiting the UK".
- Attitude towards joint ventures/partnerships: **10** - "Attitude towards joint ventures with foreigners is very positive. The Institute of Tourist Guides would fully support joint ventures but there are practitioners who would be concerned".

- *Openness and appreciation: 8* - "As long as proper qualification is in place the Institute of Tourist Guides would not have a problem with foreign guides entering the market to offer service. Other Guides may have a problem. Attitude towards foreigners entering the market to offer services is not likely to be negative".
- *Willingness to use foreign service providers (user perception): 10* - "Quite willing as long as people are qualified. There is a very good opportunity to provide niche tours for the Caribbean Diaspora and other ethnic groups".
- *Opportunities created through EU regulations: 10* - "EU does not interfere with individual state arrangements and has not sought to harmonize training across the EU".
- *Different Mode opportunities: 8* - "Could provide cross border tours in the EU as well as business welcoming services".

Opportunities for Tour Operator Services

- *Industry size: 10* - "Large industry and market".
- *Different user group: 10* - "Niche tours such as music tours, young people tours".
- *Attitude towards joint ventures/partnerships: 10* - "There are opportunities in terms of:
 1. Commission based relationships
 2. Ground handling and back office would be excellent JV opportunities.
 3. Niche market opportunities".
- *Openness and appreciation: 10* - "UK Tour operators would be indifferent to Caribbean Tour Operators entering the market – they are relatively few so it would not "faze" them or significantly reduce their market share".
- *Different Mode opportunities: 10* - "Online Tour Operation is a major opportunity. People going to Caribbean should be encouraged to book through a Caribbean Tour company. This would not stop them from selling services to anywhere. Doing back office work for TO companies e.g. monitoring website and offering a friendly Caribbean voice in advertising".



Box 35. Key Points

1. *The most open markets for CARIFORUM suppliers appear to be in Estonia, Italy, Netherlands and the UK.*
2. *Less open are those in France, Germany, Malta and Spain but that does not mean that there are no opportunities in those countries.*
3. *CARIFORUM professionals may take the opportunities afforded by their capacity to provide services at a lower cost, using modes 1 and 4, to markets where costs are substantially higher e.g. France, Germany, Italy, Netherlands, Spain and the UK.*
4. *The proximity of Estonia to Scandinavia and its links with the former Soviet countries may provide CARIFORUM professionals working with Estonian counterparts with opportunities to penetrate those larger markets.*
5. *The proximity of Malta and its linkages with North Africa, likewise provides opportunities to tap into those larger markets.*
6. *In addition to the UK, Anglophone CARIFORUM professionals may find it easier to engage in business in markets where English is widely understood such as Estonia, Germany, Malta and the Netherlands.*
7. *Surinamese professionals have an advantage in penetrating the Dutch market based on historical relationships, common language and the Surinamese diaspora in the Netherlands. The same is true for professionals from the Commonwealth countries in respect of the UK.*



VI

RECOMMENDATIONS

Steps to Be Taken by the Professions

The EPA provides a range of opportunities for CARIFORUM professionals to export their services to the EU. However, this will require aggressive and proactive initiatives by:

- the professional service providers themselves;
- Professional and other associations e.g. Caribbean Nurses Organisation, ICAC, Caribbean Bar Association, CTO, Caribbean Association for Medical Technologists, Coalitions of Service Providers etc.
- Caribbean policymakers and negotiators; and
- Caribbean High Commissions and Diplomatic Attaches in the various EU countries.

It should be noted that other groups within the ACP want to replicate the EPA and to provide services to the EU. If CARIFORUM professionals are to compete effectively they will need to work together to ensure that the rights afforded them under the EPA are realised; that the CARIFORUM countries gain a reputation as a good source of professional services; that international standards are reached and maintained; they have high standards of training; MRAs are negotiated with EU counterparts; lobbying government etc. They can also cooperate on identifying opportunities, trade missions, marketing, research, funding etc.

It should be noted that many EU countries have changed the law governing the professions and now permit mixed partnerships and companies comprising a range of professional services. Furthermore, the market for these services has been liberalised and so, supermarkets, for example, are providing legal and financial services. These outsource the work, often offshore. A major retailer in London, for example, outsourced the handling of their VAT to a small firm in the West of Ireland. Most customer services and IT support for the financial sector in the UK is provided by centres in India. Ticketing for airlines is often done remotely.

Thus, there are real opportunities for CARIFORUM professionals to attract this kind of business but they must research the market and be imaginative in their approach. They should consider working with colleagues in the same professions, but also with those from other professions so as to offer a package of services when appropriate.

It is imperative that they ensure that their knowledge and skills are updated regularly. Traditional skills may be highly valued in the handicrafts sector but less so in the legal profession where much of the traditional



drafting work is done electronically by paralegals, for example. EU consumers increasingly want their legal advice more immediate and communicated electronically. As citizens travel more and become more involved in the societies they visit, international law and foreign law issues arise e.g. in relation to real estate purchased or leased abroad, commercial transactions entered into, family law disputes with foreign spouses or partners, holiday disputes, negligence, injuries sustained abroad. Legal firms in the EU are frequently seeking reliable lawyers from abroad to advise them on foreign law, gather evidence, take depositions, initiate court proceedings etc.

Commercial Law firms are increasingly international and make use of all four Modes of Supply. Such firms are highly dynamic and demanding but the rewards for foreign partners and employees are usually much higher than can be obtained in the purely domestic market. These firms also often outsource their paralegal work.

EU hospitals, doctors, medical practice units etc. are increasingly under pressure to deliver more and more medical services and to do reduce waiting times. To achieve this, some outsource such matters as interpretation of X-rays, eye scans, diabetes control etc. The information can be communicated remotely by electronic means. This is Mode 1 transacting. Some health services (public and private) fund, or partially fund, the patient to travel abroad for treatment: this is Mode 2 supply.

The point is that professionals in the CARIFORUM countries need to be aware of the latest developments in the provision of services in the EU and to consider how they may take advantage of the new developments and flexibilities in modes of delivery.

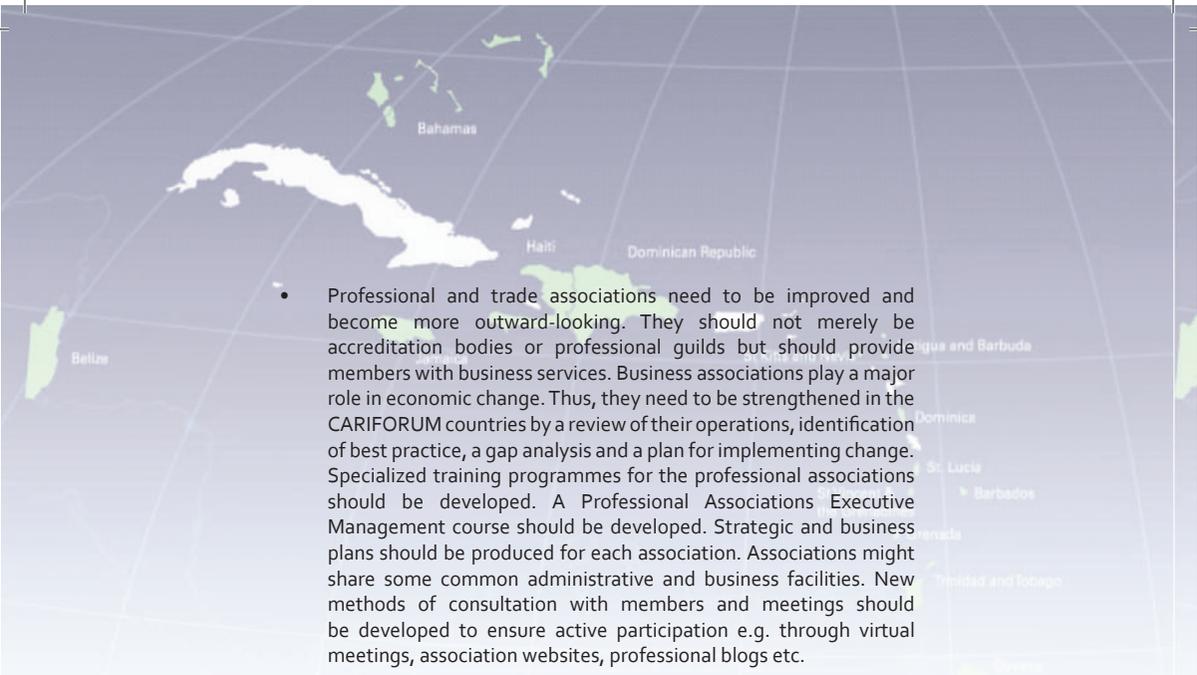
A small and efficient Regional Unit, such as the Caribbean Coalition of Services Providers, should be supported and given a mandate to seek export opportunities in professional services. This would include:

- searching all major global databases for Request for Proposals and bid documents;
- circulating information to relevant national associations;
- helping to put regional teams together;
- - arranging joint ventures with EU and other non-CARIFORUM service providers;
- having a constantly updated website with links to sites where bids are advertised.

Branches of this Unit should be established/strengthened in each CARIFORUM Member State.

Other Steps

- CARIFORUM professionals need to take a more aggressive outward looking approach to the delivery of services. They should look at the example set by India and the other BRICS countries in exporting services. This may require some training or stimulus for them to think global; remember size of the global market; use the Internet to find sites where requests for proposals are advertised; look for partners and pull teams together to submit large bids.
- They should actively seek out Requests for Proposals and bid documents and be the senior partners in putting teams together. In most cases this approach will yield higher earnings (including finder's fees) than when playing the subsidiary partner.
- Regional services providers should be oriented to seek opportunities to trade by all four modes. They should not be afraid of setting up a business in the EU if it is the best way to supply the diaspora market. However, they should be reminded that they do not have to set up in EU to export services if they use the other three modes of supply.
- CARIFORUM professionals, such as architects and engineers should consider partnering with a European counterpart to enter a bid for a project, which will reduce the challenges of size and financial resources. In this case information flows, networking and recognised certification/accreditation are critical to success.
- CARIFORUM professional might provide support services to private investors for investment projects being implemented in the region. This means access to information on projects planned or being considered and a system of referrals in place to enable CARIFORUM providers to take advantage.
- Subcontracting: regional companies have been involved in subcontracting arrangements where local knowledge is important to the success of a project or where the cost of importing skills to the site of a project in the Caribbean is higher than utilizing the services of a local company for components of the project. Sub-contracting is a good way for the region's companies to build referrals and partnerships.
- Establishing a business in an EU country which has enclaves of CARIFORUM nationals, in partnership (or via other strategic alliances) with a business based in that EU country.
- CARIFORUM service providers should be encouraged to make corporate visits to key EU organizations including EC funded organizations, private sector associations and private sector companies to submit business profiles, request to be put on any list that they send out to seek bidders and enter and stay in their hearts and minds.

- 
- Professional and trade associations need to be improved and become more outward-looking. They should not merely be accreditation bodies or professional guilds but should provide members with business services. Business associations play a major role in economic change. Thus, they need to be strengthened in the CARIFORUM countries by a review of their operations, identification of best practice, a gap analysis and a plan for implementing change. Specialized training programmes for the professional associations should be developed. A Professional Associations Executive Management course should be developed. Strategic and business plans should be produced for each association. Associations might share some common administrative and business facilities. New methods of consultation with members and meetings should be developed to ensure active participation e.g. through virtual meetings, association websites, professional blogs etc.
 - Professional associations need to represent the interests of the services sector, promote a 'services-first' approach by governments, encourage the adoption of fair multilateral rules for trade in services, contribute to the negotiation processes, and collect and disseminate information. This has been the work of the Caribbean Coalition of Services Industries and needs to be emulated by the other associations.

CARIFORUM services providers already compete effectively in education and research areas of work in the region and in Europe, as well as other international markets. Regional universities, research bodies, academic associations, etc. need to work together to develop a proactive and "whole of sector" approach to building institutional capability and sustainability to maximize this competitiveness across the EU markets. In traditional and mature educational and R&D markets like United Kingdom, Netherlands, Belgium, France and Germany, regional providers can become sources of competitive supply of skills, while in the not so-developed markets of Spain, Portugal, Italy, Greece, and eastern states, CARIFORUM providers could be the source of cost-competitive best practice supply of educational and R&D skills.

The Challenges

This handbook has emphasised the opportunities available to CARIFORUM professionals to export services to the EU but it is also important not to minimise the challenges and risk factors that they face. Whilst professional services providers in the major markets in the EU may feel no threat from the tiny number of competitors from the Caribbean, those CARIFORUM professional businesses are often too small and relatively uncompetitive to pose any threat. Smallness of itself is not a barrier to entry in niche markets but those small businesses need to be specialised, dynamic and determined.

Some of the problems that need to be addressed by the professions in the CARIFORUM countries include:

- **Experience:** The relatively limited experience of CARIFORUM consultants with competitive open bidding puts them at a disadvantage compared to their foreign counterparts. While professionals in the region complain that they are bypassed, procurement/tender review officers will generally acknowledge that technical skills are often not a constraint. Rather, they refer to inadequacies in consultants' presentation of the requisite documentation; their lack of experience on sizeable projects.
- **Risk:** there is a culture of risk aversion amongst CARIFORUM professionals.
- **Small size of firms:** Completing extensive bidding documents and mobilizing resources remains a challenge for many professionals.
- **Eligibility criteria:** Inability to meet specific eligibility criteria for participation in certain types of projects (e.g. requirement that an architect must have extensive experience designing universities, hospitals etc.)
- **Requirements for performance bonds:** for architects, engineers and contractors. These may be difficult to obtain or prohibitively expensive.
- **Languages:** The lack of sufficient foreign language skills, particularly in the Anglophone countries of CARIFORUM means that it may be difficult for professionals from those countries to fully avail themselves of the opportunities afforded in continental Europe by this EPA, particularly in France, Spain and Italy. It is less of a problem in the Scandinavian, Dutch or Eastern European countries where English is widely used as the language of commerce.

A review of language teaching in schools needs to be undertaken, particularly in the Anglophone countries. Universities and colleges should devise intensive business language and culture courses for undergraduates on vocational courses and for qualified professionals. Provision of multi-media language training should also be made.

- **Hidden cultural barriers:** it is important to understand the country to which services are to be delivered, the cultural norms, business ethos and the nuances of inter-personal dealings in the business community of the host country in order to successfully network and obtain business there. Staff in Indian call-centres, for example, are trained in the geography, climate, culture, humour and idioms of speech of the consumers in the country to which the services are being delivered. Some cultures are more "laid back" than others, some are more "direct" and other use more nuanced approaches to business. In some, business and private life are rigorously separated, whereas in others they are more integrated. Lateness is abhorred in some but tolerated and expected in others. This may be partially



addressed as above. Familiarisation events might be put on for business professionals in cooperation with foreign embassies, consulates and cultural associations.

- **Access, Distance and Costs:** obtaining visas, long-distance travel and the costs of transport and accommodation may be prohibitive for many SMEs. There is a need for cooperation to share costs to send fact-finding and networking groups to the EU. Support funding might be sought together with sponsorship arrangements with airlines, tour operators and hotel chains.
- **Protectionism:** though outwardly open to business, EU counterparts may in practice rely on well-established networks and contractual partners and may be reluctant to welcome CARIFORUM competitors. As a small example, France, Spain and Italy have been taken before the European Court of Justice for imposing rules for the practice of the profession of tourist guide which indirectly discriminated against foreign tourist guides from other Member States.
- **Difficulty of obtaining and disseminating information:** it is difficult for SMEs to obtain up to date information on business opportunities in the EU. Also, those that do obtain such information are not always efficient in disseminating it. In many countries Business Schools gather, assess, review and disseminate this information to businesses and professionals, often for a small charge. Businesses often provide training and/or internships to undergraduates or post graduates to work on building information databases. Arrangements should be made between professional associations and the higher educational institutions to cooperate on these matters. This may be a mutual benefit/no cost arrangement, a commercial one, one sponsored from public or private funds or a combination thereof.
- **Low Levels of technology usage by CARIFORUM Professionals.**
- **Lack of access to venture capital:** "high levels of public debt has crowded out private borrowing and stunted financial growth"¹⁵.
- **The cost of exchange transactions are very expensive.** Title 3 deals with current payments and capital movement. The aim is to ease the process through which payments for commercial transactions can be made and the process by which capital related to investment is moved between the two sides.
- **Professional indemnity insurance:** Where EU regulations require a professional to have professional indemnity insurance the costs may prove prohibitive for the CARIFORUM professional. For the most part, they type of contractual agreement that the CARIFORUM professional will have with an EU counterpart will require the latter

¹⁵DFID Report, 2008.

to have professional liability insurance not the former. Where it is a requirement, CARIFORUM professional associations should cooperate to seek a common policy. This will strengthen their negotiating power with the relevant financial institutions. The latter will lower premiums for members of well-run, properly policed and quality assured professional associations.

Box 36. Key Points

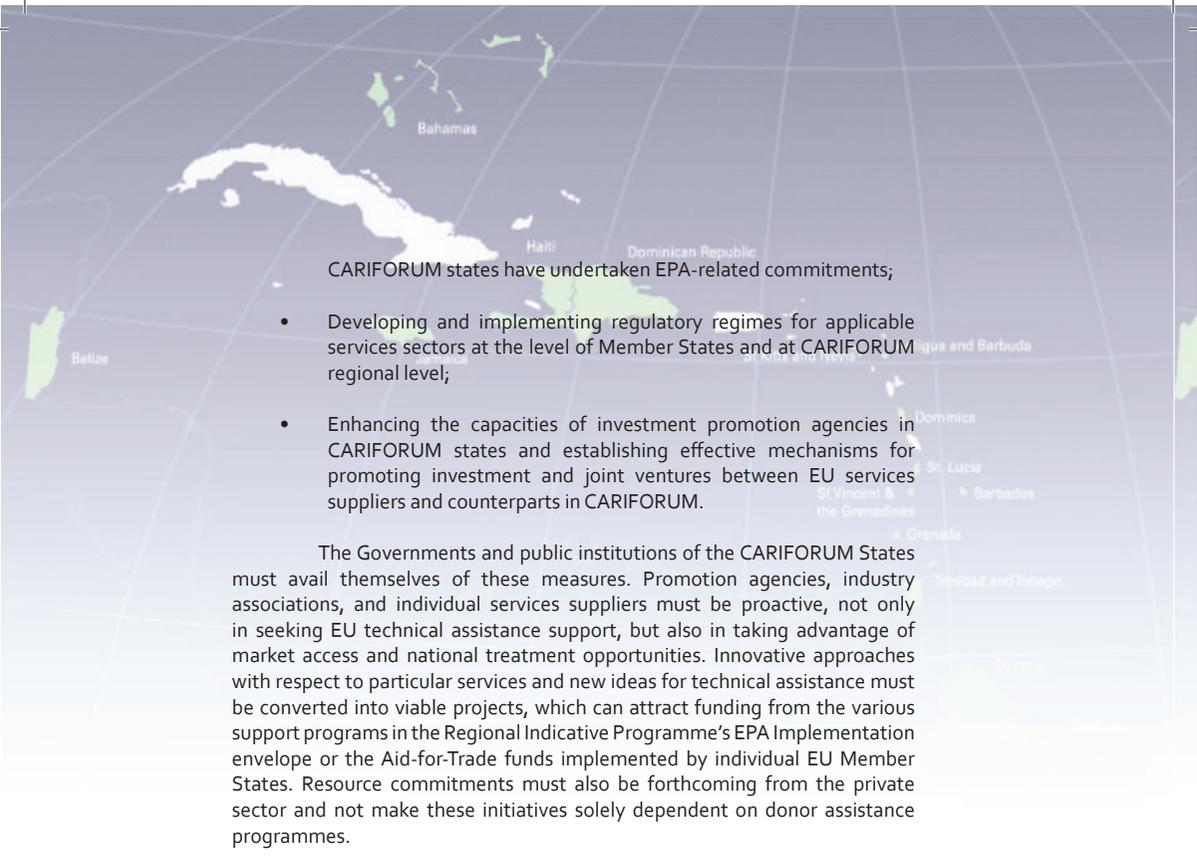
1. *The professions in the Caribbean need to adapt, modernise and get organised.*
2. *The professional associations need to develop beyond being mere accreditation and disciplinary bodies and lobby for support for professional services exporters.*
3. *Those who wish to avail themselves of the EPA opportunities need to familiarise themselves with the way services are provided in that country.*
4. *More needs to be done to promote the learning of languages by the professionals in the Anglophone countries.*
5. *It is important to understand the business culture of the country to which services are being exported.*
6. *Professionals in the CARIFORUM countries should export their services not themselves.*
7. *There are a number of challenges that can only be addressed in cooperation and coordination with Government and public bodies.*

Steps to Be Taken by Governments and Public Bodies

The professions must take the initiative to pursue the opportunities afforded them by the EPA and to address the challenges mentioned above. But Government and public bodies also have their part to play in ensuring an improved and more beneficial trade balance between the CARIFORUM States and the EU by taking measures to encourage and facilitate the trade in services. It is important that they act quickly as the other groups in the ACP are seeking similar treatment. Furthermore, the EU has been pursuing agreements with North African and Middle Eastern countries that may also lead to competition for services from them.

The EPA contains provisions for:

- Improving the ability of CARIFORUM service suppliers to gather information on and to meet regulations and standards applicable in EU Member States;
- Assistance to improve the export capacity of CARIFORUM services suppliers, particularly small and medium-sized enterprises (SMEs);
- Improving the export capacity of CARIFORUM services suppliers, with particular attention to the marketing of tourism and cultural services, the needs of SMEs, franchising and the negotiation of MRAs;
- Facilitating interaction and dialogue between European services suppliers and counterparts from CARIFORUM countries;
- Improving quality and standards, particularly in those sectors where



CARIFORUM states have undertaken EPA-related commitments;

- Developing and implementing regulatory regimes for applicable services sectors at the level of Member States and at CARIFORUM regional level;
- Enhancing the capacities of investment promotion agencies in CARIFORUM states and establishing effective mechanisms for promoting investment and joint ventures between EU services suppliers and counterparts in CARIFORUM.

The Governments and public institutions of the CARIFORUM States must avail themselves of these measures. Promotion agencies, industry associations, and individual services suppliers must be proactive, not only in seeking EU technical assistance support, but also in taking advantage of market access and national treatment opportunities. Innovative approaches with respect to particular services and new ideas for technical assistance must be converted into viable projects, which can attract funding from the various support programs in the Regional Indicative Programme's EPA Implementation envelope or the Aid-for-Trade funds implemented by individual EU Member States. Resource commitments must also be forthcoming from the private sector and not make these initiatives solely dependent on donor assistance programmes.

What needs to be done:

- CARIFORUM Ministers should reach consensus on urgent trade-related matters in order to be able to take advantage of further cooperation.
- Disseminate information on the opportunities available and generate awareness and discussion. Booklets, leaflets, seminars, online information, training seminars etc. all help. But there should also be a less formal approach in order to generate awareness. Popular media should be used, such as newspapers, magazine articles, radio, television and the social media such as Facebook, Twitter, MSN etc. to get brief messages across and to attract the interests, particularly of young professionals. To date, at the national level, only the Barbados EPA Implementation Unit of the Ministry of Foreign Affairs & Foreign Trade (www.foreign.gov.bb) has produced comprehensive outreach-educational publications for businesses and stakeholders re opportunities with the EPA covering entertainment and cultural services, business services, investment, and tourism and related services.
- Development of a database of Caribbean professionals that is shared within the region as well as a system of information flows between the two sides will assist with developing communication between the EU and CARIFORUM.
- The regional agencies and the national EPA Units need to

work together, in collaboration with the associations to advise professionals of the provisions of the EPA and the market opportunities that could be explored. Too many professionals in the CARIFORUM countries do not consider the possibility of exporting their services even when the domestic market is stagnant. Too often, their thoughts turn to emigration rather than exporting.

- A practical and detailed marketing strategy should be prepared for professional services associations to allow them to see where the niches for export may be and strategies for taking advantage of these opportunities. Caribbean Export has prepared marketing strategies for Barbados and several OECS countries. The same needs to be done for other countries.
- Those educated in traditional professional courses (e.g. lawyers, architects, medical and dentistry) either have had no business/commercial training or, if they had, it was purely for the local market. Training materials and courses should be devised for them and delivered in an accessible way so that they can fit it around their daily work schedule. Use of online training is particularly useful as they can access it when they are free rather than having to attend courses on a fixed day. These materials and courses should be tailor-made e.g. medical professionals need courses/materials that address commercial opportunities whilst maintaining ethical practice of medicine.
- Educational courses in the universities and institutes of higher education need to be revised and updated and should be based on the principles of "lifelong learning". Skills acquisition should be taught, practiced and assessed, not the mere imparting of knowledge.
- Encourage the universities and institutes of higher education to engage in research on trade in services. While many services companies engage and utilize the UWI Schools of Business (Mona IOB, Cave Hill Ramphal Centre, St Augustine IOB), the fact remains that the region still produces very little business case-study research on services and little or none on the export of services. The only salient areas have been recent initiatives in entertainment and cultural services at the Ramphal Centre and the traditional tourism/hotel sector led by CTO-Caribbean Tourism Organisation and CHTA-Caribbean Hotel & Tourism Association.
- Trade representatives of embassies and consulates of the CARIFORUM countries should familiarise themselves with the provisions of the EPA and the opportunities and challenges facing professionals in addressing them. They should provide information and support.
- The relevant ministries responsible for trade should establish a helpline (phone and email) for professionals interested in exporting services to the EU.

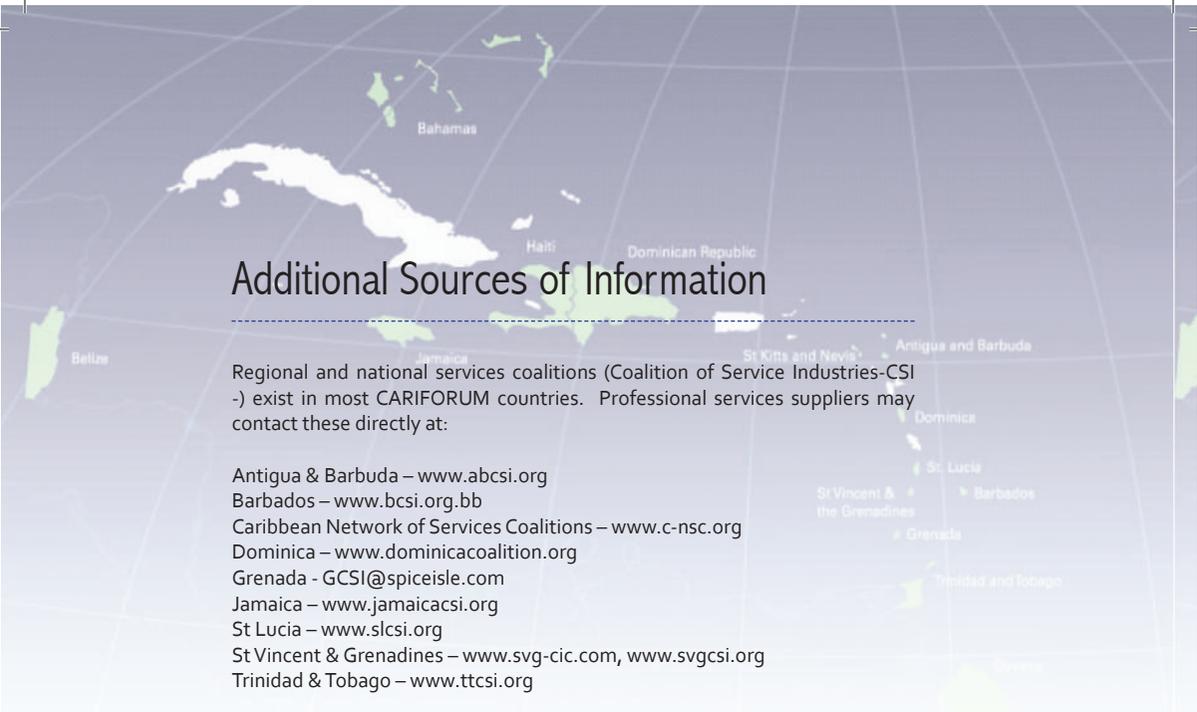
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- The Foreign Ministries should keep a record of any professional refused entry under Modes 3 or 4 and take the matter up with the Immigration Authority of the Member State concerned.
 - CARIFORUM diplomatic representatives need to pressure their EU counterparts (e.g. at the British Home Office) to ensure that simple fast track processes for acquiring business visas, as envisaged by the EPA, are put in place.
 - A survey of CARIFORUM interest in exporting selected services to the EU should be conducted in order to target more closely those who are interested. It cannot be taken for granted that most CARIFORUM services providers want or need to penetrate EU markets.
 - Funded service trade missions should be arranged to selected EU Member States for serious export oriented professionals. Criteria for seriousness should be developed such as the requirement that the professional provide a one-page outline of his/her export history and capacity and any contribution they make to the cost of the mission should be fully or partially reimbursable on them presenting a report on opportunities and making at least one presentation to an industry grouping.
 - Support to professional associations seeking MRAs with their counterparts in the EU. The architects and engineers have already begun the process and the accountants, bookkeepers and auditors have a strong basis for reaching agreement because of their accreditations from the ACCA amongst other bodies. Regulatory institutions and industry associations must be established or strengthened for other professions and there must be a willingness to embrace international best practices in terms of industry standards and regulations.

The Technological Institute in the Dominican Republic is the executive agency for an IDB-funded project “Regional Engineering and Accreditation Systems”, which aims to design and adopt a regional system of accreditation for engineering programmes across the Caribbean to, among other things: facilitate the movement of Caribbean professionals, open up the possibilities for cross-border inter-firm activities, and improve attractiveness for FDI.

The recently-formed Caribbean Institute of Certified Business Management Consultants is an effort to begin to certify management consultants. With the support of Caribbean Export, work is already underway to increase the number of certified consultants in the region who can compete in the regional market and are export-ready. This support should continue and extend to include other professions as needed.

- A checklist for preparing for an MRA is set out in Textbox 25.
- Regular networking is needed of CARIFORUM professionals and EU professional bodies. Bodies such as the Association of Commonwealth Societies of Architects in the Caribbean (ACSAC) and the Federation of Caribbean Architects (based in Curacao, with membership of the French and Dutch Antilles and the Dominican Republic) are an important step in this regard. Every effort should be made to strengthen the services offered by these and similar associations, and to facilitate their networking with EU counterparts. The establishment of CAMRAC will facilitate this process.
- Closer linkages with the financial sector must be developed, particularly to foster understanding and support. Caribbean Export has suggested that meetings be convened between the financial sector and service providers to review ways in which the latter can be supported. Functioning industry associations should, possibly with the help of ProInvest, BizClim or Caribbean Export, begin discussions with the financial sector regarding a more facilitating approach to performance bonds. A review of best practices in developing countries would help. Caribbean Export has indicated that it may seek to convene meetings between the financial sector and services providers to review ways in which the latter can be supported.
- There should be constant monitoring of competitiveness indicators and bottlenecks and unnecessary regulations and procedures removed.
- Most CARIFORUM states will need to introduce new legislation governing the professions, removing some of the existing restrictions on the work that they do; facilitating the export of their services; updating the training that they must undertake; introducing CPD; adopting international standards of practice; modernising disciplinary provisions; permitting mixed professional firms; introducing limited liability partnerships for the professions; redefining professional negligence; introducing professional liability insurance; permitting the creation of sub-professional careers e.g. paralegals etc.
- CARIFORUM trade promotion organizations (TPOs) and business service organizations (BSO's) are already utilizing EPA resources to advance these efforts. In 2010 CaribbeanExport Development Agency (www.carib-export.com) produced a report on "Investment & Business Facilitation Study for Services in the EPA", focusing on EU-CARIFORUM services opportunities in France, Germany, Ireland, Netherlands, Spain, and the United Kingdom¹⁶.

¹⁶http://www.carib-export.com/obic/documents/Inv%26Busi_facilitation_study_and_program_final_report.pdf



Additional Sources of Information

Regional and national services coalitions (Coalition of Service Industries-CSI -) exist in most CARIFORUM countries. Professional services suppliers may contact these directly at:

Antigua & Barbuda – www.abcsi.org
Barbados – www.bcsi.org.bb
Caribbean Network of Services Coalitions – www.c-nsc.org
Dominica – www.dominicacoalition.org
Grenada - GCSI@spiceisle.com
Jamaica – www.jamaicacsi.org
St Lucia – www.slcsi.org
St Vincent & Grenadines – www.svg-cic.com, www.svgcsi.org
Trinidad & Tobago – www.ttcsi.org

Various European counterpart services organizations exist such as:

Confederation des Notariats de l'Union Europeenne – www.cnue.be
Conseil de Barreaux de la Communauté Europeenne – www.ccbe.org
European Services Federation – www.esf.be
European Tax Advisors Confederation – www.cfe-eutax.org
Federation des Experts Comptables Europeenne – www.fee.be
Law Society of England & Wales – www.lawsociety.org.uk

The **EU Export Help Desk** established by the European Commission itself, is an online resource oriented to facilitate developing countries market access to the EU.

http://exporthelp.europa.eu/thdapp/index_en.html

Estonia: More information on Visas, Work and Residence Permits:

- Citizenship and Migration Board: www.mig.ee/index.php/mg/eng
- Estonia's Representations around the world: www.mfa.ee/eng/kat_150/
- Ministry of Foreign Affairs: www.mfa.ee/eng/
- Customs Guide for Travellers: www.emta.ee/?id=1089

Agence Pour la Création d'Entreprises (ACPE), 14 rue Delambre, 75682 Paris, Cedex 14, France.
Tel: 01 42 18 58 58
Fax: 01.42.18.58.00
E-mail: info@apce.com

General information on living, working and networking in Germany under:
<http://www.young-germany.de>

Addresses and websites of the Dutch missions. In the Caribbean:
http://www.mfa.nl/noord_amerika?continent=noord_amerika

Appendix 1

List of CARIFORUM States

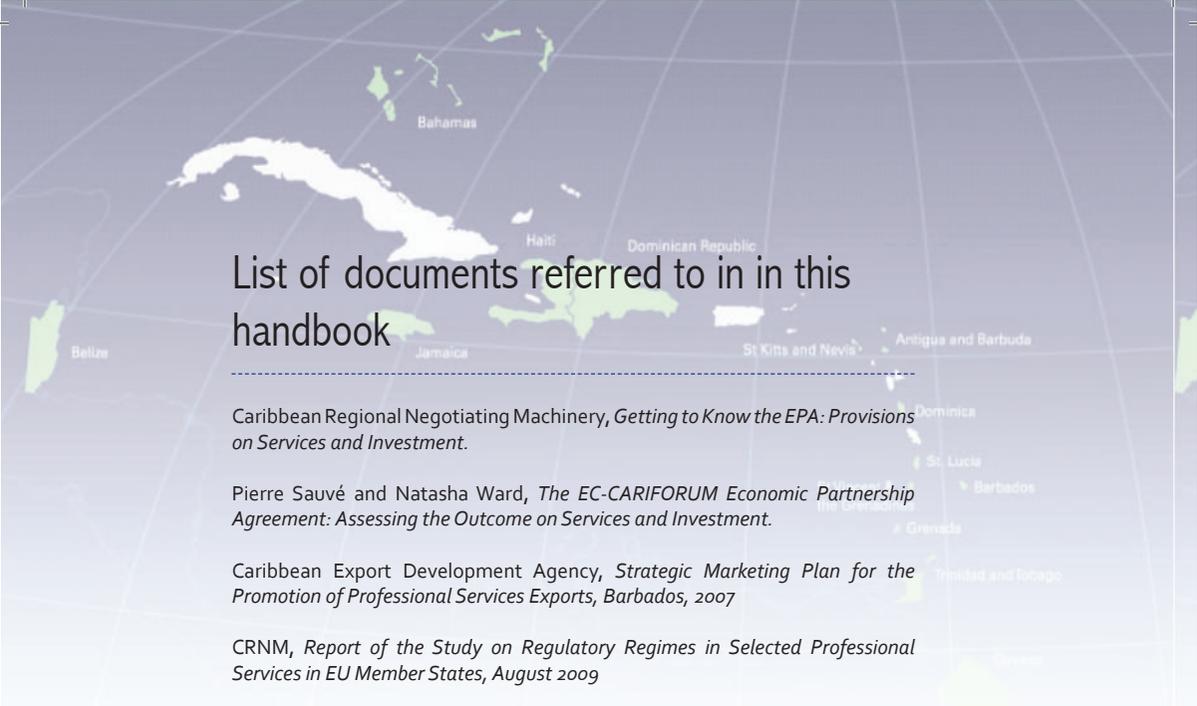
Caribbean Forum of States : Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, the Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, Saint Kitts and Nevis, Surinam, and Trinidad and Tobago. Cuba is a member but was not involved in this EPA.

List of EU Member States

EU European Union : Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden. United Kingdom

List of Schengen Member States

Schengen Countries Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden.



List of documents referred to in in this handbook

Caribbean Regional Negotiating Machinery, *Getting to Know the EPA: Provisions on Services and Investment*.

Pierre Sauvé and Natasha Ward, *The EC-CARIFORUM Economic Partnership Agreement: Assessing the Outcome on Services and Investment*.

Caribbean Export Development Agency, *Strategic Marketing Plan for the Promotion of Professional Services Exports, Barbados, 2007*

CRNM, *Report of the Study on Regulatory Regimes in Selected Professional Services in EU Member States, August 2009*

“Investment & Business Facilitation Study for Services in the EPA”, focusing on EU- CARIFORUM services opportunities in France, Germany, Ireland, Netherlands, Spain, and the United Kingdom.

http://www.carib-export.com/obic/documents/Inv%26Busi_facilitation_study_and_program_final_report.pdf

EPA







Bahamas

Haiti

Dominican Republic

Belize

Jamaica

St Kitts and Nevis

Antigua and Barbuda

Dominica

St. Lucia

St Vincent & the Grenadines

Barbados

Grenada

Trinidad and Tobago

Guyana

Suriname