

# BILL ESSENTIALS

BILL ESSENTIALS NO. 18 2020–2021

1<sup>ST</sup> SESSION, 12<sup>TH</sup> PARLIAMENT

**The CARIFORUM States (the Caribbean Community and the Dominican Republic) and the United Kingdom of Great Britain and Northern Ireland Economic Partnership Agreement, 2021**



THE PARLIAMENT OF  
TRINIDAD AND TOBAGO

## BILL ESSENTIALS

Date Introduced: March 5, 2021

House: House of Representatives

Minister: The Honourable Paula  
Gopee-Scoon, Minister of Trade and  
Industry

Bill No: 3 of 2021

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Links: The links to the Bill, and its progress can be found on the Bill's home page through the Parliament's Website

<http://www.ttparliament.org/legislations/b2021h03.pdf>

## BACKGROUND

1. The **CARIFORUM States (the Caribbean Community and the Dominican Republic) and the United Kingdom of Great Britain and Northern Ireland Economic Partnership Agreement Bill, 2021** (“the Bill”) provides for the implementation of the Economic Partnership Agreement between the Caribbean Forum (“CARIFORUM”) States and the United Kingdom of Great Britain and Northern Ireland.
2. This Bill was introduced in the House of Representatives by the Honourable Minister of Trade and Industry on March 05, 2021.
3. On April 1, 2019 His Excellency Orville London, High Commissioner for the Republic of Trinidad and Tobago to the United Kingdom of Great Britain and Northern Ireland, signed, on behalf of the Government of the Republic of Trinidad and Tobago, the Economic Partnership Agreement between CARIFORUM States and the United Kingdom of Great Britain and Northern Ireland (“the Agreement”)<sup>1</sup>.
4. The purpose of the Agreement is to:
  -  Strengthen the structure for economic relations between CARIFORUM and the United Kingdom;
  -  Enhance the economic relationship between CARIFORUM and the United Kingdom, in particular, trade and investment flows;
  -  Build on and improve the current level of preferential market access (i.e. the payment of lower or no tariffs on exports<sup>2</sup>) into the United Kingdom for CARIFORUM States; and
  -  Create new and more favourable conditions for relations between CARIFORUM and the United Kingdom in the areas of trade and investment and provide new dynamic opportunities for growth and development.
5. Trinidad and Tobago is a dualist state. This means that international law or international legal acts are not directly incorporated into our domestic legal system unless it is adopted by the legislature through national legislation<sup>3</sup>. Therefore, the Agreement will have no effect unless its terms are passed by the legislature via an Act of Parliament.

<sup>1</sup> Official Media Release by the Ministry of Foreign and CARICOM Affairs: <https://foreign.gov.tt/resources/news/trinidad-and-tobago-high-commissioner-london-signs-economic-partnership-agreement-and-related-memorandum-understanding/>

<sup>2</sup> What is Preferential Market Access by IGI Global: <https://www.igi-global.com/dictionary/preferential-market-access/54418#:~:text=Refers%20to%20the%20fact%20that,and%20For%20their%20adoption%20of>

<sup>3</sup> Justice Frank Seepersad, **Claim No. CV2020-04062** at pg. 12, para. 12: [http://webopac.ttlawcourts.org/LibraryJud/Judgments/HC/seepersad/2020/cv\\_20\\_04062DD01dec2020.pdf](http://webopac.ttlawcourts.org/LibraryJud/Judgments/HC/seepersad/2020/cv_20_04062DD01dec2020.pdf)


## KEY FEATURES OF THE BILL

### COMMENCEMENT

6. The Bill will come into effect on such date as fixed by the President by Proclamation.

### DEFINITIONS

7. **Clause 3** of the Bill proposes to define two key terms for the purpose of this legislation:

 *“Agreement”* means the Economic Partnership Agreement between the CARIFORUM States (the Caribbean Community and the Dominican Republic) and the United Kingdom of Great Britain and Northern Ireland, signed by Trinidad and Tobago on April 1, 2019 and its Protocols and Annexes; and

 *“Minister”* means the Minister of Trade and Industry.


### AGREEMENT TO HAVE THE FORCE OF LAW

8. **Clause 4** of the Bill prescribes that the Agreement shall have the force of law and provides that where amendments are accepted by the Government of the Republic of Trinidad and Tobago the Minister may give effect to the amendments by an Order. This Order shall be subject to affirmative resolution<sup>4</sup> of Parliament.
9. **Clause 4(4)** of the Bill states that this Order may contain provisions that the Minister believes is necessary or desirable in order to give effect to any accepted amendments to the Agreement and may contain provisions amending the Act with reference to specific provisions of the Agreement.
10. **Clause 4(5)** of the Bill requires judicial notice to be taken of the provisions of the Agreement and any amendments made to the Agreement as if they were contained in the Act.
11. **Clause 4(6)** of the Bill provides that the Minister must ensure that a copy of the Agreement and any Orders made under this clause is:
  - a) published in the Gazette; and
  - b) accessible on the website of the Ministry.

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<sup>4</sup> In an Act, this expression, when used in relation to a regulation, means that the regulation shall be laid before both Houses, or the House of Representatives as the case may be, within the prescribed period of time and shall not come into force unless and until it is affirmed by a resolution passed by both Houses, or the House of Representatives as the case may be. <http://www.ttparliament.org/about.php?mid=42>

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12. **Clause 5** of the Bill empowers the Minister to make Regulations to give effect to the purposes and provisions of this Act. These Regulations will be subject to negative resolution<sup>5</sup> of Parliament.
13. **Clause 6(a)** of the Bill amends the **Customs Act Chap. 78:01**<sup>6</sup> by inserting section 6C after section 6B. Section 6C (1) proposes to define the word “Agreement” used in this section as follows:
-  “Agreement” means Economic Partnership Agreement between the CARIFORUM States (the Caribbean Community and the Dominican Republic) and the United Kingdom of Great Britain and Northern Ireland, signed by Trinidad and Tobago on April 1, 2019 and its Protocols and Annexes as published in the *Gazette* No. 200 of 2020 dated 26<sup>th</sup> November, 2020 and as amended in accordance with section 4 of the CARIFORUM States (the Caribbean Community and the Dominican Republic) and the United Kingdom of Great Britain and Northern Ireland Economic Partnership Agreement Act, 2021.
14. Section 6C(2) provides that the goods listed in the Eleventh (11<sup>th</sup>) Schedule which will be imported from the United Kingdom pursuant to the Agreement will remain duty free.
15. Section 6C(3) states that subject to section 6C(4), the preferential treatment created by the Agreement which is set out in the Twelfth (12<sup>th</sup>) Schedule will apply to all goods being imported from the United Kingdom into Trinidad and Tobago pursuant the Agreement.
16. Section 6C(4) affirms that the preferential treatment will only apply to goods which:
- satisfy Protocol 1 of the Agreement;
  - are transported in conformity with Article 14(1) of the said Protocol; and
  - are accompanied by a movement certificate or an invoice declaration in accordance with Protocol 1.
17. Sections 6C (5) and 6C (6) empowers the President to make an Order to amend the Twelfth (12<sup>th</sup>) Schedule or provide for the termination, failure or commencement of a tariff preference. This Order will be subject to negative resolution of Parliament.
18. Section 6C (b) inserts two (2) schedules to the **Customs Act Chap. 78:01** as follows:

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<sup>5</sup> Negative Resolution means that the regulation shall be laid before the House and, within a prescribed period of time, may be annulled by a resolution of the House; Sir David Natzler and Mark Hutton, *Erskine May’s Treatise on The Law, Privileges, Proceedings and Usage of Parliament* (23<sup>rd</sup> edn, LexisNexis 2004), 677-678

<sup>6</sup> <http://www.customs.gov.tt/content/Customs%20Act.pdf>

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- a) The Eleventh (11<sup>th</sup>) Schedule which lists all goods being imported from the United Kingdom which will remain free of duty; and
- b) The Twelfth (12<sup>th</sup>) Schedule which provides for the preferential treatment created by the Agreement that will apply to the listed goods being imported from the United Kingdom into Trinidad and Tobago.

## REFERENCES

### KEY LEGISLATION

 **The CARIFORUM States (the Caribbean Community and the Dominican Republic) and the United Kingdom of Great Britain and Northern Ireland Economic Partnership Agreement Bill, 2021**

<http://www.ttparliament.org/legislations/b2021h03.pdf>

 **Customs Act Chap. 78:01**

<http://www.customs.gov.tt/content/Customs%20Act.pdf>

### OTHER USEFUL MATERIAL

 **UK-CARIFORUM Economic Partnership Agreement: What does it all mean?**

<https://caribbeantradelaw.com/2019/04/06/uk-cariforum-economic-partnership-agreement-what-does-it-all-mean/>



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