

# Private Sector Commission

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*The Summit of the Americas  
and the  
Guyana-Brazil Partial Scope Agreement*

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## **Preface**

Technical Information Bulletin #14 – The Summit of the Americas and the Guyana-Brazil Partial Scope Agreement – continues the series which is aimed at providing basic information for business planning and general awareness.

Information for this Bulletin was obtained from the Summit of the Americas website and from the Ministry of Foreign Trade.

Lakeram Singh  
Executive Director

## **Previous Bulletins**

***Bulletin 1 (Dec 2006) - The Guyana Economy June 2006***

***Bulletin 2 (Mar 2007) - Highlights of the Guyana National Budget 2007***

***Bulletin 3 (Mar 2007) - Recent Growth Trends in the Guyana Economy***

***Bulletin 4 (Apr 2007) – Labour Force and Employment in the Guyana Economy***

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***Bulletin 13 (February 2009) – A Review of the Guyana Economy in 2008***

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## **Fifth Summit of the Americas**

### **Declaration of Commitment of Port of Spain**

The fifth **Summit of the Americas** was held in Trinidad and Tobago from April 17<sup>th</sup> to 19<sup>th</sup>. The Summit was held under the theme “Securing our citizens’ future by promoting human prosperity, energy security, and environmental sustainability”. The Summit included a private sector forum which enabled businesspersons to have an input into deliberations. The Summit saw participation of all 34 democratically elected leaders of the Hemisphere.

The **Declaration of Commitment of Port of Spain** which had been deliberated on for some two years prior to the Summit was not agreed upon by all the leaders, and was signed only by the host country, but remains a powerful statement of commitment by the participants. Despite the refusal of some participants to sign the Declaration, the overall mood of the Summit was described as one of cooperation, solidarity and engagement.

Some specific articles of the Declaration address the issue of private sector participation in the achievement of strategic objectives:

**Article 13** outlines (inter alia) this intent with these words: “We are committed to facilitating investment and public-private partnerships in infrastructure and other relevant sectors in order to promote business development, economic growth and social development with equity. We will continue to promote increased corporate social responsibility and improved competitiveness.”

Addressing the issue of suspicious practices in the management of private enterprises **Article 81** states: “We will continue to enhance legal mechanisms for information sharing and we will develop and implement and foster a culture of integrity and transparency within public and private offices and institutions.”

**Article 95** emphasizes the intention of governments to “build, strengthen and maintain alliances with all sectors of society, especially the business, labour and academic sectors in order to harness the expertise and resources that exist within these sectors and to develop and implement effective, practical and sustainable strategies and cooperation to achieve national and hemispheric development goals.”

On the critical issue of startups for business enterprises **Article 21** outlines the following: “We will therefore take the necessary and feasible measures to simplify the processes involved in establishing and closing business ventures with the goal of reducing business start-up time to a maximum of thirty days by 2015. We request that the IDB, World Bank, ILO and other relevant regional organisations support national and local government efforts to improve the legislative frameworks and administrative procedures for achieving this target.”

## **The Guyana-Brazil Partial Scope Agreement**

The Guyana-Brazil Partial Scope Agreement which was signed by both Brazil and Guyana in June of 2001 governs trade between the two countries. The Agreement expired in May of 2008 but in August of 2008 the parties signed a 4<sup>th</sup> Additional Protocol. This Protocol extended the Partial Scope Agreement for an indefinite period.

The Agreement has now become most relevant with the completion of the Takutu Bridge which strongly links the two countries and provides a medium for increased trade.

### **The Agreement**

The Governments of the Federative Republic of Brazil and the Cooperative Republic of Guyana, hereinafter referred to as the “Parties”,

#### **CONSIDERING**

That the Article 25 of the Treaty of Montevideo 1980, of which the Federative Republic of Brazil is a signatory, authorizes the conclusion of Partial Scope Agreements with other countries and economic integration areas of Latin America.

The 1973 Chaguaramas Agreement, of which the Cooperative Republic of Guyana is a signatory.

**RECOGNIZING** the importance of the Memorandum of Understanding between MERCOSUR and the Cooperative Republic of Guyana in the fields of Trade and Investment, signed at Rio de Janeiro, on the 28th of June, 1999;

**HAVING REGARD TO** the rights and obligations of the Parties to the Marrakesh Agreement establishing the World Trade Organization;

**TAKING INTO ACCOUNT** the differences in the levels of economic development of the Parties.

**HEREBY AGREE** as follows:

#### **CHAPTER I OBJECTIVE**

**Article 1.** The objective of this Agreement is to foster bilateral trade flows, by the exchange of tariff preferences between the Parties, cooperation on trade matters and increased participation of the private sector.

#### **CHAPTER II TREATMENT OF IMPORTS**

**Article 2.** This Agreement is based on the granting of tariff preferences which shall consist of percentage reductions in the charges applied to imports from third countries at the moment of customs clearance of the products negotiated in this Agreement.

**Article 3.** Annexes I and II to this Agreement stipulate the tariff preferences and other conditions for imports of the products listed therein that originate in and are from the respective territories of the Parties.

**Article 4.** Tariff preferences shall take effect at the time of entry into force of this Agreement.

**Article 5.** The Parties undertake to maintain the tariff preferences agreed upon for the imports of the products negotiated in this Agreement, irrespective of the level of the charges applied to imports from third countries.

**Article 6.** The Parties agree not to maintain or adopt new non-tariff measures or restrictions to trade in the products negotiated in this Agreement, with the exception of the measures referred to in Articles XX and XXI of the GATT 1947.

**Article 7.** For the purpose of this Agreement, “charges” shall be interpreted as customs duties and any other charges that have the same effect, whether of a fiscal, monetary, foreign exchange or of any other nature, that are levied on imports. These do not include similar fees and charges that correspond to the approximate cost of services rendered.

**Article 8.** For the purpose of this Agreement, “restrictions” shall be interpreted as non-tariff measures of an administrative, financial, foreign exchange or any other nature, by means of which one of the Parties unilaterally creates obstacles to the imports of the other Party. Measures adopted as a result of the situations covered under Article XX and XXI of the GATT 1947 are not included in this category.

### **CHAPTER III RULES OF ORIGIN**

**Article 9.** The Parties shall apply to the goods negotiated in this Agreement the rules of origin specified in the Annex III to this Agreement.

**Article 10.** Certificates of origin provided by government authorities or other officially authorized public entities or private organizations shall accompany such goods.

### **CHAPTER IV SAFEGUARD MEASURES**

**Article 11.** The safeguard measures adopted under this Agreement shall consist in the temporary suspension or reduction of the tariff preferences established between the Parties.

**Article 12.** Following an investigation by the competent authority, said measures are applicable to the products imported under preferential treatment into the territory of one of the Parties in such increased quantities and under such conditions as to cause or threaten to cause serious injury to the domestic industry that produces like or directly competitive products.

**Article 13.** The safeguard measures shall remain in effect for one year, and may be renewed for the same period, consecutively, under the conditions stipulated in this Chapter.

**Article 14.** The Party applying the safeguard measure shall provide notification to the other Party within a maximum of seven (7) working days following the adoption thereof.

**Article 15.** The Party shall establish a quota to the imports from the other Party of the products negotiated in this Agreement so as to maintain the quantitative level of imports of a recent period which shall be interpreted as the average of the last three years for which statistics are available. The granting of preferences and other provisions stipulated in this Agreement shall apply to the quotas thereof.

**Article 16.** Whenever an importing Party considers it necessary to extend a safeguard measure beyond the initial period of one year indicated in Article 13, that Party shall initiate negotiations with the other Party with a view to define the terms and conditions under which such measures shall continue to be applied.

**Article 17.** The Parties shall initiate the negotiations referred to in Article 16 at least 60 days prior to the termination of the safeguard measure. Should an agreement not be reached, the Party applying the safeguard measure shall maintain it for an additional period of one year and shall preserve the quotas established pursuant to Article 15.

**Article 18.** In case the extended period referred to in the Article 17 comes to an end and the importing Party concludes that the measure continues to be necessary, the Parties shall reevaluate the tariff preference originally granted upon to the product in question.

## **CHAPTER V SETTLEMENT OF DISPUTES**

**Article 19.** Disputes that may arise in the implementation of this Agreement shall be settled by means of direct consultations between the Parties. Should an agreement not be reached within (30) thirty days of notification of the dispute, the Parties shall refer the matter to the Commission established in Article 20, which may establish or convene a group of experts in order to obtain a technical opinion.

## **CHAPTER VI ADMINISTRATION OF THE AGREEMENT**

**Article 20.** The Parties agree to establish an Administrative Commission, hereinafter referred to as “the Commission”, which shall be comprised of representatives of the Federative Republic of Brazil and the Cooperative Republic of Guyana.

**Article 21.** The Commission shall be established and shall hold its first meeting within (90) ninety days of the entry into force of this Agreement. The Commission shall issue its own rules of procedure.

**Article 22.** The functions of the Commission shall be the following:

- a. to ensure compliance with the provisions of this Agreement;
- b. to formulate recommendations to the Parties with respect to the disputes arising under the clarification and application of this Agreement;
- c. to keep this Agreement under constant evaluation and recommend amendments;
- d. to encourage private sectors to make effective use of this Agreement;
- e. to consider any other issue that the Parties deem necessary.

## **CHAPTER VII ACCESSION**

**Article 23.** This Agreement shall be open to accession, upon negotiation, by the other member countries of the Latin American Integration Association (ALADI) or the Caribbean Community (CARICOM).

**Article 24.** Accession shall be formalized, after negotiation, between the Parties and the acceding country, by means of the signing of an Additional Protocol to this Agreement, which shall enter into force thirty (30) days after deposit thereof with the Secretary General of ALADI.

## **CHAPTER VIII ENTRY INTO FORCE AND DEPOSIT**

**Article 25.** This Agreement shall enter into force when both Parties communicate to each other the conclusion of the necessary procedures to incorporate this Agreement into their legislation.

**Article 26.** The Government of Federative Republic of Brazil shall deposit the present Agreement with the Secretary General of ALADI pursuant to the provisions of the Treaty of Montevideo 1980 and the Decisions of the Council of Ministers of ALADI.

**Article 27.** The present Agreement shall be in effect for a period of two (2) years. This period may be extended by mutual consent of the Parties.

**Article 28.** This Agreement may be replaced by an Agreement of Economic Complementation between the MERCOSUR and the Cooperative Republic of Guyana, at the moment in which the latter enters into force.

## **CHAPTER IX WITHDRAWAL**

**Article 29.** Either Party may withdraw from this Agreement by communicating its decision to the other Party. Such withdrawal shall take effect one hundred and eighty (180) days from the date of written notice of withdrawal to the other Party.

## **CHAPTER X AMENDMENTS AND MODIFICATIONS**

**Article 30.** Any Party shall initiate a proposal to amend or modify the provisions of this Agreement by submitting such proposal to the Commission referred to in Article 20. The decision to amend shall be taken by consensus and take effect upon acceptance of the Parties.

**Article 31.** The amendments or modifications to the present Agreement shall be formalized by means of Additional Protocols thereto.

## **CHAPTER XI MISCELLANEOUS PROVISIONS**

**Article 32.** Imports by the Federative Republic of Brazil of the products from the Cooperative Republic of Guyana included in this Agreement shall be exempted from the application of the Surcharge of Freight for the Renovation of the Merchant Marine, established by Decree number 2404, of December, 23rd, 1987, in accordance with the provisions of Decree number 97945 of July, 11th 1989 and its modifying and complementary provisions.

**IN WITNESS WHEREOF**, the undersigned Plenipotentiaries, being duly authorized, have affixed their signatures to this Agreement.

**DONE AT** Brasília in the English and Portuguese languages, both texts being equally authentic, this day of June, 27th 2001.

The lists of preferences under the Partial Scope Agreement will be circulated separately.