

TERMS OF REFERENCE

CONSULTANCY TO ADVANCE COMPLIANCE WITH COMMERCIAL PRESENCE COMMITMENTS UNDER THE CARIFORUM-EU EPA

CONTENTS

1.	BACKGROUND INFORMATION.....	2
1.1.	Partner Country	2
1.2.	Contracting Authority	2
1.3.	Country Background	2
1.4.	Current Situation in the Sector	2
1.5.	Related Programmes and other Donor Activities	3
2.	OBJECTIVE, PURPOSE, AND EXPECTED RESULTS.....	3
2.1.	Overall Objective.....	3
2.2.	Purpose	3
2.3.	Results to be achieved by the Contractor.....	4
3.	ASSUMPTIONS AND RISKS	4
3.1.	Assumptions Underlying the Project	4
3.2.	Risks	5
4.	SCOPE OF THE WORK	5
4.1.	General	5
4.2.	Specific Work	6
4.3.	Project Management	7
5.	LOGISTICS AND TIMING.....	7
5.1.	Location	7
5.2.	Start Date and Period of Implementation of tasks	8
6.	REQUIREMENTS.....	8
6.1.	Staff.....	8
6.2.	Office Accommodation	9
6.3.	Facilities to be provided by the Contractor	9
6.4.	Equipment.....	9
7.	REPORTS	10
7.1.	Reporting Requirements.....	10
7.2.	Submission and approval of reports	10
8.	MONITORING AND EVALUATION.....	10
8.1.	Definition of Indicators	10
8.2.	Special Requirements	11

1. BACKGROUND INFORMATION

1.1. Partner Country

The Caribbean Forum of African, Caribbean and Pacific States (CARIFORUM).

1.2. Contracting Authority

The Caribbean Community (CARICOM) will be the Contracting Authority.

1.3. Country Background

CARIFORUM refers to the Caribbean States which are parties to the Georgetown Agreement establishing the Group of African Caribbean and Pacific (ACP) States. CARIFORUM is comprised of the following States: Antigua and Barbuda, The Bahamas, Barbados, Belize, Cuba, Dominica, The Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines, Suriname and Trinidad and Tobago.

All CARIFORUM States except for Cuba, are parties to an Economic Partnership Agreement (EPA) concluded between themselves as one (1) party and the European Union (EU) and its Member States as the other Party. The EPA was signed in October 2008 and is currently being provisionally applied by the Parties.

1.4. Current Situation in the Sector

Under the CARIFORUM-EU EPA, CARIFORUM States undertook binding commitments to liberalise investment through commercial presence. These commitments set out in Chapter 2 of Title II cover, *inter alia*, market access, national treatment, most-favoured-nation treatment, investor conduct, and the maintenance of labour and environmental standards. The provisions apply across industrial, agricultural, and services sectors, while excluding sensitive areas such as nuclear materials processing, trade in arms, audio-visual services, national maritime cabotage, and air traffic rights. In scheduled sectors, investors are assured predictable conditions of entry and operation, often requiring treatment no less favourable than that accorded to domestic operators.

Investment, and particularly foreign direct investment (FDI), is an important dimension in the CARIFORUM-EU relationship. For CARIFORUM economies, which are characterised by small markets and limited domestic capital, FDI is a key driver of growth, technology transfer,

diversification, and employment. For EU service providers, the EPA framework creates an enabling and predictable environment for accessing Caribbean markets under agreed rules of market access and non-discrimination. Effective implementation of commercial presence commitments therefore has direct implications for business confidence and sustainable development in both Parties. However, the implementation of commercial presence commitments remain uneven across CARIFORUM States. While some States have aligned their domestic regimes with EPA obligations, others lag behind. This weakens the region's ability to fully capture the developmental benefits of investment.

The *'Support to CARIFORUM in the Effective Implementation of the CARIFORUM-EU EPA – Regional Coordination on Trade and EU Cooperation (2024–2027)'* supports EPA implementation. Under Specific Objective 1, Result 2 sets a regional target of 85% implementation of key commercial presence commitments by May 2027. The CARIFORUM Directorate therefore has a central role in monitoring compliance, assisting States to address gaps, and supporting progress toward this target.

1.5. Related Programmes and other Donor Activities

A Regional Unit, the EPA Implementation Unit in the CARIFORUM Directorate of the Caribbean (CARICOM) Secretariat is tasked with assisting States in their implementation of the EPA, including the obligations assumed by the Parties under Title II of the Agreement - Investment, Trade in Services and E-commerce. The *'Support to CARIFORUM in the Effective Implementation of the CARIFORUM-EU EPA - Regional Coordination on Trade and EU Cooperation'* (2024–2027) programme provides targeted support to CARIFORUM States on EPA implementation. In addition, gap analysis reports for several CARIFORUM States were conducted between 2012 and 2013 with financial support under the Tenth European Development Fund (EDF).

2. OBJECTIVE, PURPOSE, AND EXPECTED RESULTS

2.1. Overall Objective

The overall objective of the consultancy is to assess implementation of commercial presence commitments under the CARIFORUM-EU EPA and provide targeted action planning to help States close gaps, contributing to a regional compliance rate of 85% by May 2027.

2.2. Purpose

The purpose of this consultancy is to provide CARIFORUM States with the analyses, verification,

and action planning tools required to advance implementation of commercial presence commitments under the CARIFORUM-EU EPA and support progress toward the 85% compliance target by May 2027.

2.3. Results to be achieved by the Contractor

The Contractor will deliver the following:

- (i) **Result 1:** Gap analysis reports for up to five (5) CARIFORUM States that are partially compliant highlighting deficiencies and required actions.
- (ii) **Result 2:** Verification notes confirming the status of compliance in States that have declared full implementation but where evidence is absent or contested.
- (iii) **Result 3:** An updated regional compliance scorecard and matrix, integrating the findings of the gap analyses and verification exercises.
- (iv) **Result 4:** A consolidated action plan setting out support needs and priority measures for States with lagging implementation, to guide progress toward the 85% compliance target by May 2027 and strengthen ongoing monitoring by the CARIFORUM Directorate.

3. ASSUMPTIONS AND RISKS

3.1. Assumptions Underlying the Project

The assumptions associated with this contract are:

- (i) The Consultant has access to relevant information and documentation to verify compliance status and prepare gap analyses;
- (ii) CARIFORUM States cooperate with the consultancy by providing timely responses, clarifications, and supporting evidence;
- (iii) The Consultant can complete the required analyses, verification exercises, and reporting within the prescribed timeframe; and
- (iv) A suitable qualified consultant is available to undertake the assignment.

3.2. Risks

The risk associated with this contract is:

- (i) Delays or non-responsiveness from CARIFORUM States, limiting the ability to verify compliance or complete the update of the compliance scorecard.
- (ii) Insufficient or incomplete documentation to substantiate implementation status.
- (iii) The Consultant being unable to complete the analyses and deliverables within the agreed timeframe.
- (iv) Unavailability of a suitable Consultant.

4. SCOPE OF THE WORK

4.1. General

4.1.1. Description of the Assignment

The scope of work for the assignment is understood to cover all activities necessary to accomplish the stated objective of the consultancy, whether or not a specific activity is cited in these Terms of Reference. In that regard, the Consultant will undertake a targeted technical exercise to assess and advance the implementation of commercial presence commitments under the CARIFORUM–EU EPA. This will include:

- (i) Preparation of gap analysis reports for up to five (5) CARIFORUM States that are partially compliant or lack verified documentation, identifying key deficiencies and areas requiring action.
- (ii) Preparation of verification notes for selected States that have declared full compliance but where evidence is absent or contested.
- (iii) Updating of the regional compliance scorecard and matrix to reflect verified findings. a
- (iv) Development of a consolidated action plan outlining support needs and priority measures for States with lagging implementation, to guide progress toward the 85% compliance target by 2027 and to strengthen ongoing monitoring by the CARIFORUM

Directorate.

4.1.2. Geographical Area to be Covered

Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, the Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines, Suriname, and Trinidad and Tobago.

4.1.3. Target Groups

CARIFORUM States.

4.2. Specific Work

The Consultant will:

- (i) Hold a briefing with EPA Implementation Unit of the CARICOM Secretariat on the objective, activities, expected outputs and any other issues related to the execution of the assignment that require clarification.
- (ii) Within **five (5) days** of the initial briefing meeting at (i) above, submit an initial report summarizing the consultant's understanding of the assignment and including a schedule for the implementation of the assignment.
- (iii) Review Title II of the CARIFORUM-EU EPA - Investment, Trade in Services and E-commerce, in particular Chapter 2 to appreciate the scope of the obligations assumed by CARIFORUM States as well as the benefits to be accrued to CARIFORUM States.
- (iv) Conduct a technical examination of the implementation of commercial presence commitments under the CARIFORUM-EU EPA. This will involve preparing gap analysis reports for up to five (5) States, producing verification notes where evidence of full compliance is absent or questioned, updating the regional compliance scorecard and matrix, and developing a consolidated action plan to support States with lagging implementation.
- (v) Submit a Draft Final Report to the EPA Implementation Unit responding to the activities undertaken above.

- (vi) Participate in consultations with the EPA Implementation Unit and/or CARIFORUM States to review the Draft Final Report including presenting the Report to stakeholders.
- (vii) Prepare and submit a final report to the EPA Implementation Unit of the CARICOM Secretariat incorporating the comments on the Draft Final Report received from the Secretariat and from the consultation referred to in paragraph (vi).

Communication between the Consultant and the EPA Implementation Unit of the CARICOM Secretariat will largely occur via e-communication.

4.3. Project Management

4.3.1. Responsible Body

The EPA Implementation Unit of the CARIFORUM Directorate will be responsible for managing the project.

4.3.2. Management Structure

The Director General of the CARIFORUM Directorate will have oversight responsibilities for the project and will be assisted with the day-to-day administration of the project by the Trade in Services and Investment Specialist.

4.3.3. Facilities to be provided by the Contracting Authority and/or other parties

The Contracting Authority will provide the Consultant with access to relevant information and documentation in its possession that is required for the execution of this assignment.

5. LOGISTICS AND TIMING

5.1. Location

The operational base for CARIFORUM is Georgetown, Guyana. The project will be executed from the home base of the Consultant, and at the CARIFORUM Directorate. The Consultant may be required to travel to the CARICOM Secretariat Headquarters in Guyana for an initial project briefing and for a session with the Secretariat on the interim report. The Consultant will maintain on-going contact, by electronic communication, including e-mail, with the designated officer within the Secretariat with responsibility for the management of the project.

5.2. Start Date and Period of Implementation of tasks

The intended start date is **6 October 2025** and the period of implementation of the contract will be four (4) months from this date.

6. REQUIREMENTS

6.1. Staff

Note that civil servants and other staff of the public administration of the partner country, or of international/regional organisations based in the country, shall only be approved to work as experts if well justified. The justification should be submitted with the tender and shall include information on the added value the expert will bring as well as proof that the expert is seconded or on personal leave.

6.1.1. Key experts

All experts who have a crucial role in implementing the contract are referred to as Key Experts. The profiles of the key experts for this contract are as follows:

Key Expert 1: Team Leader – Expert in International Trade

Qualifications and Skills

- (i) Minimum of a master's degree in law (with a specialisation in International Law or International Trade Law), international trade or a closely related field.
- (ii) Strong analytical and problem solving skills.
- (iii) Excellent written and oral communication skills in English.
- (iv) Project Management Skills will be an asset.

General professional experience and skills

- (i) At least ten (10) years of experience in the field of trade policy or international trade law.
- (ii) Practical experience in undertaking consultative activities with government and inter-

Governmental officials in the CARIFORUM States.

Specific professional experience

- (i) In-depth expert knowledge of the EPA, in particular its services and investment commitments, and the political and economic context underlying its negotiation.
- (ii) Experience in the interpretation and analysis of treaties with particular attention to issues affecting the interests of developing countries.
- (iii) Experience providing technical advice to CARIFORUM States on matters related to compliance with, and implementation of, international trade commitments.
- (iv) Experience in identifying consequential issues arising from the assessment international trade agreements and commitments.

6.1.2. Other Experts, Support Staff and Backstopping

The costs for backstopping and support staff, as needed, are considered to be included in the tenderer's financial offer.

6.2. Office Accommodation

Office accommodation for each expert working on the contract is to be provided by the Contractor.

6.3. Facilities to be provided by the Contractor

The Contractor shall ensure that experts are adequately supported and equipped. It must also ensure that there is sufficient administrative, secretarial, and interpreting provision to enable experts to concentrate on their primary responsibilities. It must also transfer funds as necessary to support their work under the contract and to ensure that its employees are paid regularly and in a timely fashion.

6.4. Equipment

No equipment is to be purchased on behalf of the Contracting Authority / Partner Country as part of this service contract or transferred to the Contracting Authority / Partner Country at the

end of this contract. Any equipment related to this contract which is to be acquired by the partner country must be purchased by means of a separate supply tender procedure.

7. REPORTS

7.1. Reporting Requirements

The Contractor will submit the following reports in English electronically:

- (i) **Inception Report** to be produced within **five (5) days** of the initial briefing meeting with the CARIFORUM Directorate. In the report the Contractor shall outline the proposed methodology and propose a detailed work plan. The Contractor should not proceed with his/her work unless the Contracting Authority sends comments on the inception report.
- (ii) **Draft Final Report** responding to the activities set out in these Terms of Reference. In the report the Contractor shall describe achievements including problems encountered and recommendations. This report shall be submitted no later than **one (1) month** before the end of the period of implementation of tasks.
- (iii) **Final Report** with the same specifications as the Draft Final Report, incorporating any comments received from the parties on the Draft Report. The deadline for sending the final Report is **ten (10) days** after receipt of comments on the Draft Final Report. The Final Report must be provided along with the corresponding invoice.

7.2. Submission and approval of reports

The reports referred to above must be submitted to the Project Manager identified in the contract. The Project Manager is responsible for approving the reports.

8. MONITORING AND EVALUATION

8.1. Definition of Indicators

At the level of the contract of which these Terms of Reference forms an integral part; the briefings and reports shall be the basis on which the performance is monitored and evaluated. Their timely delivery and quality will be monitored closely by the EPA Unit of the CARIFORUM Directorate.

The following criteria shall be used to assess the performance of the Contractor:

- (i) **Quality of output documents:** The quality of output documents shall be judged by their clarity and the depth to which they comprehensively cover the subject.
- (ii) **Format:** These reports shall be completed in the standard formats used by the EU.
- (iii) **Meeting of deadlines** for outputs.

8.2. Special Requirements

None foreseen