THE OFFICIAL GAZETTE 16TH JANUARY, 2006 LEGAL SUPPLEMENT

BILL No. 2 of 2006

Monday 16th January, 2006

PARLIAMENT OFFICE Public Buildings, enousing a semination of seminary Georgetown, Guyana.

2006 Tanuary, 2006

The following Bill which will be introduced in the National Assembly is published for general information.

> S. E. Isaacs, Clerk of the National Assembly.



GUYANA

BILL No. 2 of 2006

CARIBBEAN COMMUNITY (MOVEMENT OF FACTORS) BILL 2006

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- 3. Application of this Act.
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 - Offences against this Act. WO midney has one latigues evoluted their edit 30.
 - 31. Regulations.

SCHEDULE

IV TSIAS A Bill

AN ACT to give effect to the provisions of the Treaty establishing the Caribbean Community, including the CARICOM Single Market and Economy, relating to the exercise by nationals of the Caribbean Community of the right of establishment, the right to provide services and the right to move capital into and within Guyana and out of Guyana to other Member States of the Caribbean Community and for connected matters.

A. D. 2006

Enacted by the Parliament of Guyana:-

PART I PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Caribbean Community (Movement of Factors) Act, 2006 and shall be deemed to have come into operation on the 1st January, 2006.

Interpretation.

- 2. (1) In this Act, unless the context otherwise requires -"Committee of Central Bank Governors" means the body of the Community so named in Article 18(2) of the Treaty;
 - "Community" means the Caribbean Community including the CARICOM Single Market and Economy established by the Treaty;
 - "Community Council of Ministers" or "the Community Council" means the organ of the Community so named in Article 10 (1)(b) of the Treaty;

THE OF

"Minister" means the Minister assigned responsibility for Foreign
Trade and International Co-operation;

"Conference of Heads of Government" or "Conference" means the organ of the Community so named in Article 10 (1) (a) of the Treaty;

"Council for Finance and Planning" means the organ of the bus too tent away and drive community so named in Article 10 (2)(a) of the Treaty;

"Council for Trade and Economic Development" means the organ
of the Community so named in Article 10 (2)(b) of the

Treaty;

- community and is substantially owned and effectively

- (a) any type of organisation for the production of, or the trade in,
 goods or the provision of services (other than a non-profit
 organisation) owned and controlled by a national of a

 Member State;
 - (b) an agency, branch or a subsidiary of such enterprise of a harmonic of a Member State;

"Member State" means a Member State of the Community
excluding an Associate Member within the meaning of
Article 231 of the Treaty;

"national" means à person who -

- (a) is a citizen of a Member State;
- (b) has a connection with a Member State of a kind which

(c)

entitles that person to be regarded as belonging to or, if it be so expressed, as being a native or resident of such a Member State for the purposes of the laws thereof relating to A or learner or vinnamento of the Community so region in migration; or

is a company or other legal entity constituted in a Member State in accordance with the laws thereof and which that Member State regards as belonging to it, provided that such company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the Community and is substantially owned and effectively controlled by persons mentioned in paragraphs (a) and (b); "non-wage-earning activity" means an activity undertaken by a selfemployed person;

"right of establishment" includes the right to -

- engage in any non-wage-earning activity of a commercial, industrial, agricultural, professional or artisanal nature;
- create and manage an economic enterprise;
- "service" means a service provided against remuneration other than wages in any approved sector and "the provision of a service" means the supply of a service
 - from the territory of a Member State into the territory of (a) another Member State:

- (b) in the territory of one Member State to a service consumer of botomore with the Central Bank of Guyana or a monetary another Member State;
 - commercial presence in the territory of another Member

 State;
 and member and descriptions of the state through
 - (d) by a service supplier of one Member State through the presence of a natural person of a Member State in the territory of another Member State;

"Treaty" means the Revised Treaty of Chaguaramas establishing the manufacture of Chaguaramas establishing the Caribbean Community including the CARICOM Single

Market and Economy signed at Nassau, The Bahamas, on 5th

July 2001.

Application of this 3. (1) Subject to this section and sections 7 and 9, the provisions of this leader to the section and sections 7 and 9, the provisions of this leader to the section and sections 7 and 9, the provisions of this leader to the section and sections 7 and 9, the provisions of this leader to the section and sections 7 and 9, the provisions of this leader to the section and sections 7 and 9, the provisions of this leader to the section and sections 7 and 9, the provisions of this leader to the section and sections 7 and 9, the provisions of this leader to the section and sections 7 and 9, the provisions of this leader to the section and sections 7 and 9, the provisions of this leader to the section and sections 7 and 9, the provisions of this leader to the section and sections 7 and 9, the provisions of this leader to the section and section and sections 7 and 9, the provisions of this leader to the section and sect

- (a) the right of establishment, and the right to provide a service inGuyana by a national of a Member State; and
- (b) the right of a national of a Member State to move capital into and within Guyana and out of Guyana to another Member State.
- (d)

 (2) An activity in Guyana involving the exercise of governmental authority by a duly authorised person shall be excluded from the operation of this Act.
 - (3) For the purposes of subsection (2) "an activity in Guyana involving notices due and more of subsection (2) "an activity in Guyana involving the exercise of governmental authority" means an activity conducted in Guyana neither on a commercial basis nor in competition with one or more economic enterprises such as -

- (a) an activity conducted by the Central Bank of Guyana or a monetary authority or any other public entity in pursuance of monetary or exchange rate policies;
- an activity forming part of a statutory system of social security or public retirement plans;
 - an activity forming part of a system of national security or for the establishment or maintenance of public order;
 - any other activity conducted by a public entity for the account of, or with the guarantee or using financial resources of, the Government;
- (e) such other activity as may be excluded by regulations made pursuant to section 31.

Rights of nationals of a Member State in respect of establishment, services and capital.

Rights of nationals 4. (1) Subject to the provisions of this Act, a national of a Member

State shall enjoy -

the right of establishments in Guyand a service in

- bus state reduction the right of establishment;
- the right to provide a service; and
 - (d) the right to move capital and within Guyana and out of Guyana (2)

 An activity in Guyana involving the exercise of governmental states,

 authority by a duly authorised person shall be excluded from the operation of this Act

without discrimination on the ground of nationality.

(2) Notwithstanding any other law, a person to whom this subsection applies, shall, for the purposes of the Acts mentioned in the Schedule and to the extent set out therein in respect of each Act, be treated as if he were a national of Guyana.

- of managed and restant (3) Subsection (2) applies to a national exercising or seeking to exercise a right conferred by subsection (1).
 - The Minister may, by order which shall subject to negative Schedule resolution of the National Assembly, amend the Schedule.

restrictions.

- Obligation to 31st December, 2005, notify the Council for Trade and Economic Development or the Council for Finance and Planning, as the case may require, any remaining restrictions on
 - opt (s) rophate measures to ensure that the right of establishment and the right to provide a service in Guyana by a national of another Member State; and
 - n 115(d) erations. the right to move capital into and within Guyana and out of Guyana to another Member State, and to make current payments and transfers.

Prohibition of new restrictions.

Subject to the provisions of this Act, the Minister shall not introduce new restrictions on a national of another Member State entitled to the rights specified in The Minister shall, by order, adopt me, 4 noitises

manipulation or abuse of the right of establishment, to gain an unfair advantage against a THE RIGHT OF ESTABLISHMENT

Treatment of monopolies. 7. (1) Notwithstanding any of the provisions of this Act, the Minister may determine that the public interest requires the exclusion or restriction of the right of establishment in any industry or in a particular section of an industry.

- (2) national exercising or seeking to exercise Where a determination by the Minister has been made pursuant to subsection (1) and results in the continuation or establishment of -
 - (a) which shall subject to negative a government monopoly, the Minister shall adopt appropriate measures to ensure that the monopoly does not discriminate among nationals of Member States, save as otherwise provided in this Act, and is subject to the agreed rules of competition established for an economic enterprise of the Community; or lopment or the Council for Finance and
- a private sector monopoly, the Minister shall, subject to the provisions of this Act, adopt appropriate measures to ensure that national treatment is accorded to a national of another Member State in terms of participation in its operations.

Programme to remove restrictions on establishment.

ster shall not introduce

and to make gurrent payme Restrictions on the right of establishment in Guyana by a national of another Member State shall be removed in accordance with the programme approved by Conference in accordance with Article 33(3) of the Treaty.

Minister to adopt safeguard measures.

- The Minister shall, by order, adopt measures based on criteria established by the competent Organ of the Community to safeguard against manipulation or abuse of the right of establishment, to gain an unfair advantage against a national of Guyana or another Member State.
- In carrying out his duties under this Part, the Minister shall use his best endeavours to ensure that a national of another Member State of the Community restrictions on TO HOLDSTREET TO HOISU

Management of removal of the rights of establishment.

to desirous of engaging in an approved economic activity in Guyana is not impeded in the exercise of his right of establishment. a mimse-easy-non-

- Without prejudice to the generality of subsection (1) the Minister shall -
- (a) abolish administrative practices and procedures which impede the exercise of the right of establishment by a national of another provide a service in Guyana by a national of another Member State shall be removed in Member State;
- remove all restrictions on the movement of managerial, technical (b) and supervisory staff of an economic enterprise established by a national of a Member State in Guyana;
 - remove all restrictions on entering and residing in Guyana by spouses and immediate dependent family members of nationals establishing economic enterprises and of managerial, technical and supervisory staff of an economic enterprise of a national of another Without prejudice to the provisions relating to the right of ;
 - ensure that a national of another Member State exercising his right of establishment has the right to acquire or otherwise possess or control land, buildings and other property adequate for the purpose;
 - (e) implement Community standards to ensure protection of the interests of partners, members and other persons with financial interests in companies and other entities have rights equivalent to those of similar entities in other Member States;
 - implement measures established by the Council for Human and Social Development for the coordination of legislative and

and ni bahaqmi ion at substitute administrative requirements of Member States for the conduct of non-wage-earning activities in the Community. In Salots as

PART III THE RIGHT TO PROVIDE SERVICES

Programme to

- Subject to the provisions of this Act, restrictions on the right to remove restrictions. 9 11. provide a service in Guyana by a national of another Member State shall be removed in accordance with the programme approved by Conference pursuant to Article 38 (2) of the and supervisory staff of an economic enterprise established
 - Notwithstanding subsection (1), the Minister may with the consent of the Council for Finance and Planning and with the approval of the Conference, exclude certain financial services from the application of this Act in accordance with Article 38 (2) establishing economic enterprises and of managerial, technical and

Collateral activities by service providers.

Without prejudice to the provisions relating to the right of 12. establishment, a national exercising the right to provide a service in Guyana may, in order to provide the service, temporarily engage in an approved activity in Guyana under conditions no less favourable than those enjoyed by nationals of Guyana.

outlaings and other property adequate for the purpose:

Management of removal of restriction on right to provide a service.

- The Minister shall take such measures as may be necessary to ensure nterests of partners, members and other persons with financ that a national of another Member State is not impeded in the exercise of his right to nterests in companies and other entities have rights equivalent to provide a service in Guyana. those of similar entities in other Membe
 - Without prejudice to the generality of subsection (1), the Minister Without prejudice to the generality and measures established by the Council for Human and the council for Human and the council for the counci

- (a) remove administrative practices and procedures in Guyana which impede the exercise of the right to provide a service by a national of another Member State;
- spouses and immediate dependent family members of a national of another Member State providing a service and of the managerial, technical and supervisory staff of such a national; and
 - ensure that a national of another Member State exercising the right to provide a service in Guyana has the right to acquire or otherwise bus closes to also possess or control land, buildings and other property on a non-zwoff member state exercising the right to acquire or otherwise bus closes to also possess or control land, buildings and other property on a non-zwoff member state exercising the right

(1) SubjectVI TRAQ ion (2), the Minister shall, where necessary, LATIQAD AVOM OT THOUS AHT

Prohibition of new restrictions on the movement of capital. 14. Subject to this Act, the Minister -d vroteniminosib-non

- (a) shall not introduce new restrictions -
 - (i) on the movement of capital;
 - (ii) on payments connected with the movement of capital; and
 - (iii) on current payments and transfers;
- shall not render more restrictive the operation of existing subsidiary legislation or other law governing the movement of capital, except as authorised by the Treaty.

capital

- Removal of Subject to the provisions of this Act, restrictions on the movement movements. 180 6 of all capital payments, and on all current payments, including payments for goods and services and other current transfers to Member States shall be removed.
 - vd annual and current payments and

spouses and immediate dependent subjust enaftern a national of

- assessment and to have so (a) a equity and portfolio investments;
 - bus (b) a short-term bank and credit transactions;
- ingined guizonexe state to (c) M payment of interest on loans and amortization;
- eximple of oriupos of idea (d) and dividends and other income on investments after taxes;
 - non a no vinagorg radio(e) a repatriation of proceeds from the sale of assets; and
- To notation and of betalet ((f) be other transfers and payments relating to investment flows.

Authorisation to facilitate movement of capital.

- 16. Subject to subsection (2), the Minister shall, where necessary, grant the authorisations required for the movement of capital mentioned in section 15 on a non-discriminatory basis aim of John Act, the Ministers basis and John Act, the Ministers and Minist
- Loans intended for State purposes shall require prior notification to the Government.

Coordination of policies and information

The Minister shall take such measures as may be required to 17. of render more restrictive the operation of existing spandaxs agis roll .coordinate the foreign exchange policies of Guyana with those of other Member States in overning the movement of capital, exceeding respect of the movement of capital among them and with third States.

The Minister shall keep the competent authorities of other Member at all times seek to minimise damage to the commercial, economic States informed of significant unusual movements of capital within his knowledge to and from third States.

ment V PART Vinem SAFEGUARD MEASURES

safeguard balance - of - payments.

removed progressively as the situation mentioned in subsection (1) or another structure. Subject to subsection (3), where the Minister is satisfied that there

are serious balance-of-payments and external financial difficulties or the threat thereof, the 21 notices mile Minister may, consistently with international obligations assumed by Government, adopt whiled the olimon or maintain restrictions to address the difficulties. Impoor year retriefly off

- to exorting out not benied (2) in The restrictions which may be adopted or maintained pursuant to protecting a particular sector due regard being paid - shullini (1) notice may be
 - (a) quantitative restrictions on imports;
- vas to (1) noitosedue of mane (b) ben restrictions on the right of establishment;
- bus some of the Council of the Counc
 - and move vas mishas the (d) lev restrictions on the right to move capital or on payments and transfers between it winning of the day for transactions connected therewith. Hade retained
 - The restrictions mentioned in subsection (2) shall -(3)
- (a) subject to the provisions of this Act, and relevant determinations of Long some of the Council for Finance and Planning and the Council noitoes ai benefitem anoitoitees to a for Trade and Economic Development, as the case may require, not

and to be some and not another management of the states of against Member States in

favour of third States;

are serious balance-of-payments and external financial difficulties or the threat thereof, the

16

- at all times seek to minimise damage to the commercial, economic or financial interests of other Member States;
- (c) not exceed those necessary to deal with the circumstances mentioned in subsection (1);
- be temporary and not longer than eighteen months and must be removed progressively as the situation mentioned in subsection (1) improves.

notification of restrictions.

- Incidence and survivor 19. (1) In determining the incidence of restrictions mentioned in section 18, the Minister may accord priority to activities which are essential to the economic stability of Guyana but such restrictions shall not be adopted or maintained for the purpose of protecting a particular sector due regard being paid to any special factors which may be affecting the reserves of Government or its need for reserves.
- (2) Restrictions adopted or maintained pursuant to subsection (1) or any changes therein shall be notified within three working days to the Council for Finance and england bas at Planning and the Council for Trade and Economic Development, and, in any event, the Minister shall forthwith consult with the competent organ of the Community if requested The restrictions mentioned in subsection (2) .oz ob ot

Consultations for the removal of restrictions.

The Minister shall consult with the Council for Finance and Planning, and, where practicable, before the imposition of restrictions mentioned in section 18, with the objective of being informed of any recommendations for the removal of the restrictions.

- (2) The consultations mentioned in subsection (1) shall -
- (a) be designed to assist Government to overcome its balance-of-Minister intends to apply restrictions pursuant to subsection payments and external financial difficulties;
 - assess the balance-of-payments situation of Government and the restrictions adopted or maintained under section 18 taking into account inter alia
 - the nature and extent of the balance-of-payments and (i) external financial difficulties;
 - the external economic and trading environment of Guyana; (ii) and
 - alternative corrective measures which may be available.
 - The consultations shall address the compliance of any restrictions with section 18(3) and, in particular, the progressive removal of restrictions in accordance with section 18(3)(d).
 - In such consultations, all findings of statistical and other facts presented by the Committee of Central Bank Governors relating to foreign exchange, monetary reserves and balance-of-payments shall be accepted and conclusions shall be based on the assessment by the Committee of the balance-of-payments and external financial situation of Guyana.

Application of restrictions on exercise rights to resolve difficulties.

Where the exercise of rights conferred by this Act creates senous difficulties in any sector of the economy of Guyana, or results in economic hardships in any region thereof, the Minister may, subject to the provisions of this section, apply such

restrictions on the exercise of rights as the Minister considers appropriate in order to resolve the difficulties or alleviate the hardships.

- If the Minister intends to apply restrictions pursuant to subsection
- (1), the Minister shall, prior to applying the restrictions, notify the Organ of the

Community of the Minister's intention and the nature of the restrictions. restrictions adopted or maintained under section 18 taking into

If the Minister is unable to notify the competent organ prior to the (3) application of the restrictions, the Minister shall, upon applying the restrictions, forthwith the nature and extent of the balance-of-payments and notify the competent organ of the Community of the application and the nature of the external financial difficulties restrictions.

Conditions for of restrictions.

The Minister shall, at the time of applying the restrictions alternative corrective measures which may be anoitailque ent mentioned in section 21, submit to the Council for Trade and Economic Development or the Council for Finance and Planning, as the case may require, a programme setting out with section 18(3) and, in particular, the progressive removal of restrictions in accordance

the measures to be taken by Guyana to resolve the difficulties or alleviate the hardships.

- The Minister shall act on the determinations of the competent organ In such consultations, all findings of statistical and other facts - gnibrager ytinummoo ah fo presented by the Committee of Central Bank Governors relating to foreign exchange.
- the appropriateness of the restrictions and whether they shall (a) monetary reserves and balance-of-payments shall be accepted and conclusions shall be continue:
 - (b) the adequacy of the programme and the duration of the restrictions. financial situation of Guyana

Permissible restrictions.

Restrictions applied by the competent Minister pursuant to section Where the exercise of rights conferred by this Act creat

-21 shall be confined to those necessary difficulties in any sector of the economy of Guyana, or results in economic hardships in

- to resolve the difficulties in the affected sectors; any region thereof, the Minister may, subject to the provisions of this section, apply such
 - to alleviate economic hardships in a particular region; (b)

- (c) to minimise damage to the commercial or economic interests of langulopadous to photal of other Member States; and Josiotti of
 - (d) to prevent the unreasonable exercise of rights granted by this Act, gminogx9 vns m 20gshothe exercise of which could impair the development of the CARICOM Single Market and Economy.

Non-discrimination applying permissible restrictions.

24.

The Minister in applying the restrictions pursuant to section 21 shall

not discriminate on the ground of nationality and to secure compliance with laws or regulations which are consistent

- (a) shall progressively relax them as relevant conditions improve;
- may maintain them only to the extent that conditions mentioned in (b) section 21 continue to justify their application.

General exceptions to the obligation to remove restrictions.

Notwithstanding any of the provisions of this Act, the Minister

shall not be precluded from taking measures -

- to protect public morals or maintain public order and safety;
- (b) to protect human, animal and plant life;
- to protect existing economic activities which are based on to secure compliance with laws or reactivities. to secure compliance with laws or regulations relating to customs traditional, historical or customary practices; enforcement, or to the classification, grading or marketing of goods, to give effect to international obligations including treaties on the or to the operation of monopolies by state enterprises or enterprises given exclusive or special privileges;
 - Nothing in subsection (1) shall be construed as permitting the to protect intellectual property rights or to prevent deceptive practices;
 - (e) relating to gold or silver;
 - (f) relating to products of prison labour;

- to elegating to child labour; relating to child labour;
- to protect national treasures of artistic, historic or archaeological (h) to prevent the unreasonable c; sulave of rights granted by this Act
 - to prevent or relieve critical food shortages in any exporting ne de (i) lopment of the Member State; Modern Modern
- (j) relating to the conservation of natural resources or the preservation The Minister in applying the restrictions pursuant to section 21 shall of the environment;
 - (k) to secure compliance with laws or regulations which are consistent with the provisions of the Treaty including those relating to
 - the prevention of deceptive and fraudulent practices, and the effects of default on contracts;
 - the protection of the privacy of individuals in relation to the (11) processing and dissemination of personal data and the protection of confidentiality of individual records and protect public morals or maintain public order and safety:
 - to protect existing economic activities which are based on traditional, historical or customary practices;

(b) to protect human, animal and plant life;

accounts:

- to give effect to international obligations including treaties on the (m) or to the operation of monopolies by state enterprises or enterprises avoidance of double taxation.
 - Nothing in subsection (1) shall be construed as permitting the Minister to take any measure which constitutes arbitrary or unjustifiable discrimination against a national of another Member State.

Security exceptions to obligation to remove restrictions.

- Nothing in this Act shall be construed as preventing the Any person who, contrary to the provisions of
- obstructs or otherwise impedes a national of a Member State in the Jacobian

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- (a) protect the essential security interests of Guyana
 - relating to the supply of services carried out directly or indirectly for the purpose of provisioning a military establishment:
 - (ii) in time of war or other public emergency; or
- (b) discharge the obligations of Guyana for the maintenance of international peace and security.

PART VI With LARANAGE to the generality of subsection (1) the Minister

Determinations of organs and bodies of the Community to be carried out.

to Idea 327. Sidw to 155 The Minister shall, where an organ or body of the Community has been authorised to make any determinations in respect of any of the rights referred to in of a mountain section 4, carry out such determination. It summed to

Implementation of Community standards.

The Minister shall establish or employ as required an appropriate mechanism to implement Community standards to determine equivalency or to accord accreditation or mutual recognition to diplomas, certificates and other evidence of qualifications secured by a national of another Member State.

Right to appeal to Minister for speedy review of decision of a functionary.

29. Where a functionary purports to restrict a person in the exercise of a right under section 4, the person aggrieved may, without prejudice to any other remedy, appeal to the Minister for a speedy review of the decision of such functionary.

Offences against this Act.

30. Any person who, contrary to the provisions of this Act, knowingly obstructs or otherwise impedes a national of a Member State in the lawful enjoyment of any right mentioned in section 4 or any right collateral thereto commits an offence and shall be liable on summary conviction to a fine not exceeding one hundred and twenty thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

Regulations.

- 31. (1) The Minister may make regulations generally for giving effect to the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1) the Minister may make regulations to -
- of the right of the community those activities in respect of which the right of the community has been authorised to make the rights referred to in
 - (b) determine the conditions under which the right of establishment is to be exercised;
 - (c) remove restrictions on the entry of managerial, technical and their supervisory staff to be employed in an economic enterprise and their back of the entry of managerial, technical and supervisory staff to be employed in an economic enterprise and their back of the entry of managerial, technical and supervisory staff to be employed in an economic enterprise and their back of the entry of managerial, technical and supervisory supervisory staff to be employed in an economic enterprise and their back of the entry of managerial, technical and supervisory supervisory staff to be employed in an economic enterprise and their back of the entry of managerial, technical and supervisors and their back of the entry of managerial, technical and supervisors and their back of the entry of the entry

qualifications secured by a national of another Member State

Where a functionary purports to restrict a person in the exercise of

ight under section 4, the person aggrieved may, without prejudice to any other rem

appeal to the Minister for a speedy review of the decision of such functionar

SCHEDULE

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AMENDMENT TITLE economic enterprise of the national." Insert after subsection (7) the following subsection as subsection (7A) – **Immigration Act** Cap. 14:02 (7A) Notwithstanding the provisions of subsection (7), and subject to such Section 12(7A) requirements as may be prescribed by regulations made by the Minister under section 37, an immigration officer shall allow to enter and remain in Guyana for a period of definite or indefinite duration and without the need for a permit of the immigration officer - 1 a 10" show off to "anavage) (a) Identified to the series of the series o modeline exercise in Guyana any of the rights or privileges conferred on multi-of bangleas anid and amaz add and "atata" thim by the Caribbean Community (Free Entry of Skilled Act No. 6 of 1996 Nationals) Act 1996; gnibulan (MODISA), winnimum Community (ARICOM), including ent to notion of the signal and Economy signal CARICOM Single Manifestand Economy signal ytinummoo naddira ant reducing mercan as an area was an The Bahamas, on 5th July 2001; of Marionals of Skilled Nationals) Act 1996; data radmaM is to us (c) a national of a Caribbean Community State who is seeking bank a to start and naM a dilw northeanness to exercise in Guyana any of the rights or privileges conferred no of gaignoled as behilper ed of mid selfitas deidon him by the Caribbean Community (Movement of Factors) Act No. of 2006 Act 2006; annual of the Caribbean Community (Movement of Factors) Act 2006 -

5.4	(i) the spouse and immediate dependent family membe
	of the national establishing an economic enterprise a
	to whom paragraph (c) applies, and
	(i) the managerial, technical and supervisory staff of an
	economic enterprise of the national.".
Subsidiary legislation Cap. and vd about 82:01	
	1.(1)Regulation 204B is amended as follows -
or a permit of the immigration	been ed. (a) in paragraph (a)(i) by the insertion after the words "citizen
	Guyana" of the words "or a national of a member State".
ommunity State who is seeking to	of meddar(b) insert the following paragraph after paragraph (c) -
he rights or privileges conferred or	The year any "(d) In this regulation -
nunity (Free Entry of Skilled	""Member State" has the same meaning assigned to it i
	1000 15A (elanon the Revised Treaty of Chaguaramas establishing
nembers of the family of the	m mehnegeb bas esnogs ethe Caribbean Community CARICOM), including
(a) applies for the duration of the	dasigating monty of Isno the CARICOM Single Market and Economy sig
al under the Caribbean Communit	noiten and navig noissium at Nassau, The Bahamas, on 5th July 2001;
onals) Act 1996,	- odw nosem "national" means a person who
ommunity State who is seeking	Onsodding State; (a) is a citizen of a Member State;
of the rights or privileges conferred	yns ansyu O ni sei (b) has a connection with a Member State of a kind
Community (Movement of Factors	Onesdora which entitles him to be regarded as belonging to
	and the sole of expressed, as being a native or residen
f the Caribbean Community	o anoisivoiq and or insight the State for the purpose of the laws thereof relations
12006 -	"; notingimmi objectment of Factors) Ac

(2) Notwithstanding the amendment of regulation 204B by this Act (ii) substantially owned if more than fifty percent of the equity

the regulation may be amended by regulations made under sections 243

Cap.82:01 and 275 of the Customs Act.

(ii) effectively controlled if the nationals mentioned leaves (iii) effectively controlled if the nationals mentioned leaves (iii)

Section 2

Insert the following definitions in their appropriate alphabetical order -

""Member State" has the same meaning assigned to it in the Revised Treaty of

Chaguaramas establishing the Caribbean Community (CARICOM), including

bas a noisosa to anoisosa o the CARICOM Single Market and Economy signed at Nassau, The Bahamas,

Subject to the C;1002 yluly 2001; on 5th July 2001;

Mational" means a person who - mational

- No of 2006; state; a citizen of a Member State; another Member
- be regarded as belonging to or, if it be so expressed, as being a native or resident of the State for the purposes of the laws thereof relating to immigration; or
 - Table Labeled (c) a is a body corporate or other legal entity constituted in a Member State

 No years best of an accordance with the laws thereof and which that Member State

 (MODISAD vinnimo) med regards as belonging to it; provided that such body corporate has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the

 Community and is substantially owned and effectively controlled by a person mentioned in paragraph (a) or (b);

For the purposes of this definition a body corporate is -

nendment of regulation 204B by this Act	
i) by regulations made under sections 243	i) substantially owned if more than fifty percent of the equity
	interest of the company is beneficially owned by nationals
	mentioned in paragraph (a) or (b);
(i	i) effectively controlled if the nationals mentioned in paragraph (a)
opriate alphabetical order -	or (b) have the power to name a majority of its directors or
signed to it in the Revised Treaty of	otherwise legally to direct its actions;".
Section 6A MODINA Insert after section	6 the following section as section 6A -
	6A. Notwithstanding the provisions of section 6 and
tickets to nationals of Member States.	subject to the Caribbean Community (Free Entry of Skilled
No. 6 of 1996	Nationals) Act 1996 and the Caribbean Community (Free
No. of 2006	Movement of Factors) Act, 2006, a national of another Member
nber State of a kind which entitles him to	State-shall be deemed a person ordinarily resident in Guyana for
or, if it he so expressed, as being a native	the purposes of this Act.".
he purposes of the laws thereof relating to	or resident of the State for t
Mining Act 1989	
Section 2 ms Marin bell Insert the following	g definitions in their appropriate alphabetical order –
""Member State" I	nas the same meaning assigned to it in the Revised Treaty of
need sand corporate has been chaguar	amas establishing the Caribbean Community (CARICOM),
gnibuloni its registered office and central	g the CARICOM Single Market and Economy signed at Nassau,
and middly vital activity within the Bah	amas, on 5 th July 2001;
yd bellounos ylevil "national" means a	person who - ne vinummo)
(d (a) is a c	itizen of a Member State;
грогате is –	

- (b) has a connection with a Member State of a kind which entitles

 him to be regarded as belonging to or, if it be so expressed, as

 being a native or resident of the State for the purposes of the laws

 thereof relating to immigration; or
- it, provided that such body corporate has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the Community and is substantially owned and effectively controlled by a person mentioned in paragraph (a) or (b);

For the purposes of this definition a body corporate is -

- (i) substantially owned if more than fifty percent of the equity
 "nottergumm of gnitsler foreign
 interest of the company is beneficially owned by nationals
 "make in the company in the company of the co
- (ii) effectively controlled if the nationals mentioned in paragraph (a)

 or (b) have the power to name a majority of its directors or

 otherwise legally to direct its actions;".
 - Insert after the words "a citizen of Guyana" the words, "or a national of a Member State".

Section 17(1)

Section 17(3)

Insert in paragraph (d), after the word "Guyana" the words, ", including a corporate body that is a national of a Member State".

the CARICOM Single Market and Economy signed at Massau. The Bahamas,

	The second secon
Institute of douby be	(b) has a connection with a Member State of a ki
Chartered	him to be regarded as belonging to or, if it be
1991	
Section 2 10 assoqua	Insert the following definitions in their appropriate alphabetical order –
	""Member State" has the same meaning assigned to it in the Revised Treaty of
e in accordance with	Chaguaramas establishing the Caribbean Community (CARICOM), including
	the CARICOM Single Market and Economy signed at Nassau, The Bahamas,
	it, provided that such of 1002 on 5 July 2001;
	"national" means a person who –
nity and is substantially	(a) is a citizen of that State; or
intioned in paragraph	(b) has a connection with a Member State of a kind which entitles
	him to be regarded as belonging to or, if it be so expressed, as
	Borne of this definition a body corporate is being a native or resident of the State for the purpose of the laws
cent of the equity	(i) substantially owned if more than fifty per
ned by nationals	";nointerest of the company is beneficially ow
Section 10(1)	(a) Insert in paragraph (a) (i), after the word "Guyana" where it first occurs (d) to (a) adaptated in benoting in
tioned in paragraph (a)	the words, "or a national of a Member State"; effectively controlled if the nationals men
	(b) insert in paragraph (b) (i), after the word "Guyana" where it first occurs,
	the words, "or a national of a Member State". otherwise legally to direct its actions."
ntional of a Member	Section 17(1) Insert after the words "a citizen of Guyana" the words, "or a na
Practitioners Act	State".
1991	Insert the following definitions in their appropriate alphabetical order -
ncluding a corporate	""Member State" has the same meaning assigned to it in the Revised Treaty of
	Chaguaramas establishing the Caribbean Community (CARICOM), including
	the CARICOM Single Market and Economy signed at Nassau, The Bahamas,
	on 5 th July 2001;

"national" means a person who -

effectively controlled if the nationals mentioned in paragraph

- is a citizen of a Member State; or (a) is a citizen of Member State; or
- (b) has a connection with a Member State of a kind which entitles the purposes of the laws thereof him to be regarded as belonging to or, if it be so expressed, as native or resident of the State being a native or resident of the State for the purposes of the laws ei dila laust red thereof relating to immigration;".

Section 6(1)(a)

- (a)' For the word "or", where it appears for the first time, substitute a neficially owned by nationals "comma".
 - (b) Insert after the words "is a resident of Guyana" the words "or is a national of a Member of State".

(a) or (b) have the power to name a majority of its d'Isianani (a) 1995

Section 2(1)

Insert the following definitions in their appropriate alphabetical order -

""Member State" has the same meaning assigned to it in the Revised Treaty of Chaguaramas establishing the Caribbean Community (CARICOM), Insert, in the opening part, after the words a foreign company the words, ", not being linear, in the opening part, after the words a foreign company; not being linear, after the words a foreign company; not being linear, after the words a foreign company; not being linear, after the words a foreign company; not being linear, after the words a foreign company; not being linear, after the words a foreign company; not being linear, after the words a foreign company; not being linear, after the words a foreign company; not being linear, after the words a foreign company; not being linear, after the words a foreign company; not being linear, after the words a foreign company; not being linear, after the words a foreign company; not being linear, after the words a foreign company; not being linear, after the words a foreign company; not being linear, after the words a foreign company; not being linear, after the words a foreign company; not being linear, after the words a foreign company; not being linear, after the words a foreign company; not being linear, after the words and a foreign company; not being linear, after the words a foreign company; not being linear, after the words and a foreign company; not be a foreign comp including the (CARICOM) Single Market and Economy signed at ompany that is a national of a Member State

"a company that is a national of a Member State" means a company or other legal entity constituted in a Member State in conformity with the laws thereof and which that Member State regards as belonging to it, provided ert the following definitions in the appropriate alphabetical order that such body corporate had been formed for gainful purposes and has its Member State" has the same meaning assigned to it in the Revised Treaty registered office and central administration, and carries on substantial of Chaguaramas establishing the Caribbean Community (CARICOM), including the CARICOM Single Market and Economy signed at Nassau, The activity within the Caribbean Community and is substantially owned and effectively controlled by a person who -

- (a) is a citizen of a Member State; or
- to be regarded as belonging to or, if it be so expressed, as being a native or resident of the State for the purposes of the laws thereof relating to immigration;

For the purposes of this definition a company or other legal entity is -

- (i) substantially owned if more than fifty percent of the equity interest of the company is beneficially owned by nationals mentioned in paragraph (a) or (b);
 - (ii) effectively controlled if the nationals mentioned in paragraph
 (a) or (b) have the power to name a majority of its directors or otherwise legally to direct its actions;".

Section 7(1)

Insert after the words "incorporated in Guyana" the words, "or is a company that is a national of a Member State".

Insert, in the opening part, after the words "a foreign company" the words, ", not being a company that is a national of a Member State".

Dental Registration Act 1996

Insert the following definitions in the appropriate alphabetical order –

of Chaguaramas establishing the Caribbean Community (CARICOM),
including the CARICOM Single Market and Economy signed at Nassau, The
Bahamas, on 5th July 2001;

Section 7(2)

Section 2

"national" means a person who -) deargered in bonoth (a) is a citizen of a Member State; or bonwo (b) has a connection with a Member State of a kind which entitles him to be regarded as belonging to or, if it be so expressed, as being a native or (i) substantially owned if more than fifty percent of the equity interest. resident of the State for the purposes of the laws thereof relating to the company is beneficially owned by nationals mentioned in immigration;". Section 7(1)(a) (a) For the words "or", where it appears for the first time, substitute a "comma"; (b) insert after words "is a resident of Guyana" the words, "or is a national of a Member State". Use all Isemb of villagel **Guyana Shipping** Insert the following definitions in their appropriate alphabetical order - 100 monaged Act 1998 ""national" means a person who -Section 2(1) (a) is a citizen of a Caribbean Community State; (b) has a connection with a Caribbean Community State of a kind Jassau, The Bahamas, on 5th July which entitles him to be regarded as belonging to or, if it be so expressed, as being a native or resident of the State for the "alanoitan" brow shi studied a purposes of the laws thereof relating to immigration; or (b) insert in paragraph (d), before the semicolon at the end the words, "or a body is a body corporate constituted in a Caribbean Community State in corporate that is a national of a Caribbean Community State." accordance with the laws thereof and which that Caribbean Community State regards as belonging to it, provided that such body corporate has For the words "(a), (b), (d) and (e)" substitute the words, "in paragraphs (a), (b), (c) (t) been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the Caribbean Community and is substantially

	"national" means a person who
	owned and effectively controlled by a person mentioned in paragraph (a)
ntitles him to be	(b) has a connection with a Member ;(d) aroa kind which e
g a native or	For the purposes of this definition a body corporate is -
relating to	(i) substantially owned if more than fifty percent of the equity interest of the equity interest of the same than the company is beneficially owned by nationals mentioned in paragraph (a) or (b);
substitute a "comma"	omit is a first (ii) effectively controlled if the nationals mentioned in paragraph (a) or
or is a national of a	brow ent "Energy" (b) have the power to name a majority of its directors or otherwise
	legally to direct its actions;" 2 radimaly
Section 2(g) - 19b10 la	For paragraph (g) substitute the following paragraph These gaiquid angul griquid angul griquid angul griquid gail and gail and grid gail and gail a
	"(g) "Caribbean Community" means the Caribbean Community (CARICOM) is a citizen of a Caribbean Community State:
nity State of a kind	established by the Revised Treaty of Chaguaramas including the Caricom
ging to or, if it be so	Single Market and Economy signed at Nassau, The Bahamas, on 5 th July
	expressed; as being a native; 1002 sident of il
Section 11(1)	(a) In paragraph (a), for the word "citizens" substitute the word "nationals";
	(b) insert in paragraph (d), before the semicolon at the end the words, "or a body meadding a mi betuttence encorporate that is a national of a Caribbean Community State".
sch body corporate has (2)	State regards as belonging to it, provided that so State regards as belonging to it, provided that so of the words, "(a), (b), (d) and (e) " shows the regards and has its rebeen formed for gainful purposes and has been formed for gainful purposes and has its rebeen formed for gainful purposes and gainful
by within the Caribbean	administration, and carries on substantial activities on substantial activities on substantial activities. Community and is substantially

IVIO	EXPLANATORY MEMORANIA
Securities Industry Act 1998 of the section 47 been solved a subsection (3) thought a securities and section (3)	The Bill is most beneficial to nationals of Member States. The Bill provides to a sirror state shall enjoy in our analysis of the most state. Member State. Insert after the word "Guyana" the words, "a citizen of Guyana or his spouse or is a national of a Member State. The Bill provides the Bill p
Subsection (3A)	discrimination on the ground of nationality.
	""Member State" has the same meaning assigned to it in the Revised Treaty
	of Chaguaramas establishing the Caribbean Community (CARICOM).
	Bahamas, on 5 th July 2001;
	"national" means a person who -
	(c) is a citizen of a Member State; or anomal and a soul to ano settings of gnickes at only lengths a vino slid W (d) has a connection with a Member State of a kind which entitles him to be
	not be restricted, the Bill also seeks to ensure that the restrictions placed on regarded as belonging to or, if it be so expressed, as being a native or
	national within the meaning of clause 2 of the Bill are not inadvertently remove
	resident of the State for the purposes of the laws thereof relating to
	As amended the legislation in the Schedule treat a Caricon national as a national

ensuring that the rights conferred by the Bill in respect of the said Acts can be enjoyed without discrimination on the grounds of nationality.

In order to accomplish the foregoing, the Minister shall, inter aila, abolish administrative practices and procedures which impede the exercise of the right of establishment and the right to provide a service by a national, and remove all restrictions on entering and residing in Guyana by spouses, immediately dependent family members and staff of a national of another Member State who is

EXPLANATORY MEMORANDUM

The Bill is most beneficial to nationals of Member States. The Bill provides that a national of a Member State shall enjoy in Guyana the right of establishment, the right to provide a service and right to move capital into and within Guyana and out of Guyana to other Member States, without discrimination on the ground of nationality.

To eliminate the difference of treatment of a national of Guyana and a national of another Member State when the latter seeks to exercise uses fights, use the company of restrictions that impede the enjoyment of the rights provided therein.

While only a national who is seeking to exercise one of those rights, mentioned in clause 4 should not be restricted, the Bill also seeks to ensure that the restrictions placed on a person who is not a national within the meaning of clause 2 of the Bill are not inadvertently removed.

As amended the legislation in the Schedule treat a Caricom national as a national of Guyana thus ensuring that the rights conferred by the Bill in respect of the said Acts can be enjoyed without discrimination on the grounds of nationality.

In order to accomplish the foregoing, the Minister shall, *inter aila*, abolish administrative practices and procedures which impede the exercise of the right of establishment and the right to provide a service by a national, and remove all restrictions on entering and residing in Guyana by spouses, immediately dependent family members and staff of a national of another Member State who is seeking to establish an economic enterprise or to provide services.

Part II of the Bill provides for the exclusion or restriction of the right of establishment in any industry or in a particular section of an industry where the Minister determines this is necessary in the public interest. The Minister shall adopt measures to safeguard against manipulation or abuse of the right of establishment.

Part III of the Bill while providing for the removal of restrictions on the right to provide a service in Guyana by a national of another Member State, empowers the Minister, with the consent of the Council for Finance and Planning and with the financial services from the application of the Act. And a national exercising the right to provide a service may, in order to provide the service, temporarily engage in collateral activities.

Part IV of the Bill provides for the removal of restrictions on the movement of all capital payments, and on all current payments, including payments for goods and services and other current transfers to Member States. The Minister has the obligation to take such measures as may be required to coordinate the foreign exchange policies of Guyana with those of other Member States in respect of the movement of capital among them and with third States. In this regard it may be noted Guyana has abolished exchanged control.

Part V of the Bill provides for the adoption or maintenance of certain restrictions in circumstances of serious balance-of-payments and external financial difficulties or the threat thereof in order to address these difficulties. These restrictions shall not discriminate among Member States or against Member States in favour of third States and shall be temporary.

The Bill provides for redress where a person in the exercise of a right mentioned in clause 4 is crestricted by the decision of a functionary. At another washing a management of a functionary and another transportation of a functionary and another transportation of a functionary. The Bill makes it an offence for someone to obstruct or impede a national of a Member State in the lawful enjoyment of any right mentioned in clause 4 or any right collateral thereto.

The rights provided by clause 4 are not absolute. In certain circumstances, clause 7 provides for an industry where the public interest so requires; clause 11 provides for the exclusion of the right at to provide certain financial services; clause 18 provides for the adoption or maintenance of restrictions to address serious balance-of-payments and external financial difficulties; and clause 21 provides for the application of restrictions on the exercise of rights conferred by this Bill im 9 order to resolve difficulties or alleviate hardships where these rights create serious difficulties image any sector of the economy of Guyana, or results in economic hardships many region thereofit marines are based on the sould drive make the serious difficulties and the based with the sould drive make the serious difficulties in the provides are sould drive make the serious difficulties in the provides are sould drive make the serious difficulties in the sould be sould drive make the serious difficulties of the sould drive make the serious difficulties in the sould be sould drive make the serious difficulties of the sould drive make the serious difficulties are sould drive make the serious difficulties in the sould be sould drive make the serious drives and the serious drives are serious drives.

Minister of Foreign Trade and International Cooperation.

noits rapposed in order to serious balance-of-payments and external financial difficulties or the threat thereof in order to address these difficulties. These restrictions shall not discriminate among Member States or against Member States in favour of third States and shall be temporary.