



The Application of the ATA Carnet as a potential tool to promote Caribbean exports to Brazil

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About the University of the West Indies TradeLab Clinic

Dr. Jan Yves Remy and Dr. Ronnie Yearwood supervise one of TradeLab's newest clinics which is being offered as a collaborative effort between two departments of the University of the West Indies Cave Hill Campus: the Shridath Ramphal Centre for International Trade Law, Policy & Services (SRC) and the Faculty of Law (Cave Hill).

The SRC is the leading centre devoted to assisting the Caribbean region with issues of international economic law, regionally and on the global front, and is home to the Masters in International Trade Policy (MITP). The Faculty of Law at the Cave Hill Campus (in Barbados) is the oldest law faculty of the University of West Indies' three campuses, with the other two campuses located in Trinidad (St. Augustine) and Jamaica (Mona). The TradeLab pilot clinic is being offered as an elective to third-year students from the Faculty of Law.

Dr. Remy is the Deputy Director of the SRC and teaches on the MITP course; and Dr. Yearwood is a Lecturer in Law in the Faculty of Law, at The University of West Indies, Cave Hill Campus (UWI).

As the Academic Supervisors, Dr. Remy, and Dr. Yearwood, signed up students to work in teams of three or four. They worked with mentors of the TradeLab network as well as Research Fellows from the TradeLab alumni who assisted the students with research tasks.

This memorandum was completed by one of three student teams working for beneficiaries from the Caribbean region.

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List of Acronyms & Abbreviations

ACP	African, Caribbean and Pacific Group of States
ALADI	Latin American Integration Association
BIT	Bilateral Investment Treaty
CAP	Common Agricultural Policy
CARIBCAN	Caribbean-Canada Trade Agreement
CARICOM	Caribbean Community
CARIFORUM	Caribbean Forum
CSME	Caribbean Single Market and Economy
EC	European Commission
ECLAC	Economic Commission for Latin America and the Caribbean
EEC	European Economic Community
EU	European Union
GATS	General Agreement of Trade in Services
GDP	Gross Domestic Product
GEPLACEA	Latin American and Caribbean Sugar Producers' Association
GNP	Gross National Product



GRULAC	Group of Latin America and the Caribbean
IBCC	International Bureau of Chamber of Commerce
ICC	International Chamber of Commerce
IDB	Inter-American Development Bank
IMF	International Monetary Fund
LNG	Liquefied Natural Gas
MDC	Most Developed Countries
MERCOSUR/MERCOSUL	Common Market of the South
MFN	Most Favoured Nation
NGA	National Issuing and Guaranteeing Association
OAS	Organization of American States
OECD	Organization for Economic Co-operation and Development
RTC	Revised Treaty of Chaguaramas
SELA	Latin America Economic System
UNASUR	Union of South American Nations
WCF	World Chambers Federation
WCO	World Customs Organization



WTO	World Trade Organization
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Executive Summary

1. The ATA Carnet is a standardized international customs document that is used to obtain duty-free temporary admission of particular goods into states that are parties to the Customs Convention on the ATA Carnet for the Temporary Admission of Goods (ATA Convention). It can be used as a trade promotional and facilitation tool. Since its creation over 500,000 ATA Carnets have been used for the temporary admission of goods from one territory into another territory. The ATA Carnet is used to promote goods at trade fairs and exhibitions. This allows exporters to gain an understanding of the market. In addition to exposing products to the Brazilian market, the ATA Carnet may also provide opportunities for exporters to find entry points to satisfy demands for goods and services in Brazilian market.

2. There is a market for Caribbean Community (CARICOM) exports in Brazil. However, CARICOM States have to determine a way to promote their exports in Brazil because of the lack of preferential trading agreements. Thus, the ATA Carnet can be used as a trade facilitation tool.

3. Brazil is a party to the ATA Convention and used it tremendously during the Rio Olympics. Benefits included the lack of hassle at ports as well as bypassing the otherwise high import duties on items that would be re-exported. Trinidad & Tobago is the only CARICOM State to be a party to the ATA Convention. For there to be reciprocity the other members of CARICOM must become parties to the ATA Convention and ratify the Convention which provides a guide and legal framework as to its operation.

4. The purpose of this memorandum is to provide a comprehensive analysis of the use of the ATA Carnet as a tool to promote CARICOM Exports to Brazil. This memorandum identifies requirements for implementing the ATA Carnet. These include institutional requirements such as guaranteeing associations and national Chambers of Commerce; and legal requirements such as the national legislation. Attached to the memorandum is a draft bill that was piloted in the Trinidad & Tobago legislature. It can be used a model legalization for other legislatures in the Caribbean seeking to implement the ATA Carnet.



5. This memorandum has found that the ATA Carnet though limited in scope can be used as a tool to promote CARICOM in Brazil. The ATA Carnet can be used to promote trade in goods, trade in services and to promote investment for CARICOM in Brazil. The ATA Carnet can be useful for pursuing and establishing trading relations with Brazil as an emerging global power. CARICOM States must be willing to engage with Brazil to effectively use the ATA Carnet, establishing complimentary agreements such as bilateral investment treaties, air services agreements and double taxation treaties.

6. Attached to this memorandum is a How-to Guide which explains the process of acquiring and using the ATA Carnet to a business seeking to use an ATA Carnet. Also attached are the ATA Brussels Convention and the ATA Carnet Istanbul Convention, which are the governing legal documents of the system. A copy of the ATA Carnet Bill of Trinidad and Tobago is available, along with the Brazil-Guyana BIT. Finally, the Revised Treaty of Chaguaramas, the agreement which articulates CARICOM trade policy, is attached to the memorandum.



1. Introduction

7. The Caribbean Community (CARICOM) and Brazil have had bilateral trading relations over the years yet, the trading relationship remains embryonic. In light of recent projections indicating the ascension of Brazil as one of the world leading economies, it is worthwhile for CARICOM States to consider intensifying efforts to nurture a better trading relationship. The ATA Carnet presents an opportunity to achieve this goal.

8. The term “ATA” is a combination of the initial letters of the French words “Admission temporaire” and the English words “Temporary Admission”. The ATA Carnet, also known as the “merchandise passport”, is an international customs document that permits the tax-free and duty-free temporary export and import of goods among ATA Carnet signatories for up to one year. Goods that are covered by the ATA Carnet include professional equipment, commercial samples, and goods for exhibitions and trade fairs. The system is overseen by the International Chamber of Commerce World Chambers Federation (ICC WCF) and the World Customs Organization (WCO). The application of the ATA Carnet is intended to simplify and expedite the procedure for temporary import and export to facilitate international business.

9. Applied to the CARICOM context, the ATA Carnet can be used to facilitate trade and allow CARICOM nationals to ‘test’ the Brazilian market for their goods. This has the potential to forge a close relationship among the parties and transform the Caribbean’s trade and economic position within the hemisphere and Brazil in particular.

10. This Memorandum will be structured as follows.

Section 2 provides a detailed overview of the ATA Carnet. It discusses how the ATA Carnet is used by the businesses to transport goods without customs duties or taxes as well as the physical composition of the passport for goods. It provides an overview the key provisions of the Convention and their interpretation



including definitions, the scope of the ATA Carnet, the fixed period of transport and dispute settlement inter alia. It also outlines the specific goods that are permitted and prohibited under the system. The system permits commercial samples, goods for display and professional equipment, whereas perishable goods are prohibited.

Section 3 outlines the ratification, accession and approval of the ATA Convention as well as identifying the lead ministry that could undertake the process. This section will also assess Trinidad & Tobago's experience with the system. Trinidad appears to be the only Caribbean country to have passed legislation for an ATA Carnet system, having done so in 1986. In 2001, Trinidad appears to have started to pilot new ATA Carnet legislation. This section also provides a synopsis of the process of the ATA Carnet system, detailing the important role that the guaranteeing associations have in administering a local ATA Carnet system.

Section 4 analyzes the history of the trading relationship between CARICOM States and Brazil, outlining existing agreements and the scope of engagement of particular CARICOM Member States.

Section 5 examines why the ATA Carnet should be the tool to pursue and build trading relations with Brazil. It provides an analysis of the unique benefits that CARICOM States can derive from ratifying the ATA Convention in light of experiences globally with the ATA Carnet and why it (ATA Carnet) is the best among alternatives.

Section 6 analyses the usefulness of the ATA Carnet system with Brazil for the purpose of transporting goods to encourage opening new markets, maintaining and increasing existing market share, and obtaining market intelligence.

Section 7 considers the use of the ATA Carnet to promote investment in critical areas such as food security, alternative energy production, and improved healthcare infrastructure and supply which are issues that CARICOM States and Brazil share.



Section 8 considers exploring trading in services particularly in the areas of cultural entertainment and educational services.

Section 9 considers the barriers to trade despite the close proximity between CARICOM States and Brazil and the use of the ATA Carnet as a way to encourage trade between CARICOM States and Brazil. Navel agreements, bilateral investment treaties, double taxation treaties and air services agreements are considered as means to encourage trade between CARICOM States and Brazil.

This memorandum will conclude in section 9 with the view that though the ATA Carnet is limited in scope as an export-reimport trade facilitation tool, it can be used creatively by CARICOM States in building trade with Brazil.



2. The ATA Carnet

- *Section 2.1 provides a detailed overview of the ATA Carnet. It details how it is used by businesses to transport goods without customs duties or taxes as well as the physical composition of the passport for goods.*
- *Section 2.2 assesses the key provisions of the Convention and their interpretation including, inter alia, definitions, the scope of the Carnet, the fixed period of transport and dispute settlement.*
- *Section 2.3 outlines the specific goods that are permitted and prohibited under the system. The system permits commercial samples, goods for display and professional equipment, whereas perishable goods are prohibited.*

2.1 What is the ATA Carnet?

11. The ATA Carnet is a standardized international customs document that is used to obtain duty-free temporary admission of particular goods into states that are parties to the ATA Convention (“Convention”).¹ The term “temporary admission” means temporary importation free of import duties in accordance with the conditions laid down by article 3 of the Convention.²

12. In using the ATA Carnet, the international businesses enjoy considerable simplification of customs formalities. The ATA Carnet serves as a goods declaration at export, transit, and import. Also, no import duties or taxes are collected for the temporary importation of goods covered by the system since internationally valid security has been established by the national associations issuing the ATA Carnets.

¹ Doug Barry, A Basic Guide to Exporting (11th edn, US Department of Commerce 2015) 105

² ATA Carnet Convention, Article 1



13. The ATA Carnet is now the document most widely used by businesses for international operations involving temporary admission of goods.³ The ATA Carnet system is an integral part of the WCO's ATA and Istanbul Conventions.⁴

14. The ATA Carnet system was developed in response to the needs of various types of businesses to transport their products to trade fairs or international exhibitions as samples to potential buyers, or their professional equipment. As it became necessary for these goods to be easily and rapidly transported across frontiers, the Customs Co-operation Council (now the WCO) adopted the ATA Convention in 1961.⁵

2.2 The Rules Governing the ATA Carnet

15. The ATA Carnet is governed by the ATA Carnet Brussels Convention and the ATA Carnet Istanbul Convention (together, the “ATA Convention”). The ATA Carnet Brussels Convention formally established the ATA Carnet in response to the needs of a variety of businesses to quickly transport their goods to trade fairs and exhibitions for samples or merely as their professional equipment. Following its creation, numerous other international conventions were created for specific goods. As the number of ATA Carnets quickly grew, the WCO drafted a global convention to merge the 13 existing temporary agreements known today as the ATA Carnet Istanbul Convention. The major provisions of the conventions are outlined below.

³ GK Kwatra, 'India and the Convention on Temporary Duty-Free Admission of Goods' [1997] 25(6-7) Intertax 277-280

⁴ World Customs Organization, 'The ATA System: An instrument for promoting international trade' (World Customs Organization) http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/instruments-and-tools/conventions/ata/pf_ata_brochure.pdf?la=en accessed 16 February 2020

⁵ *ibid*



Table 1: The major provisions of the ATA Carnet Brussels Convention⁶

Article	Summary of the provisions	Comments
Article 1	Defines terms used throughout the Convention, such as import duties, temporary admission, transit, ATA Carnet, issuing association, guaranteeing association, the council, person.	This is to ensure the terms when used in the subsequent provisions are understood.
Article 2	Article 2 stipulates that the price of the ATA Carnet shall be commensurate with the cost of services rendered.	This provision ensures a level of proportionality and fairness in the services offered by the guaranteeing association.
Article 3	Each Contracting Party shall accept in lieu of its national Customs documents, and as due security, ATA Carnets valid for its territory and issued and used in accordance with the conditions laid down in the present Convention, for goods temporarily. Each Contracting Party may also accept ATA Carnets, issued, and used under the same conditions, for goods temporarily imported under other international temporary importation Conventions or for temporary admission procedures under its national laws and regulations. Article 3(3) provides for the	Article 3 provides the scope of the ATA Carnet. This provision outlines the foundation of the ATA Carnet which should be accepted instead of national customs documents on goods imported temporarily. Note that goods intended for processing or repair shall not be imported under cover of ATA Carnets.

⁶ Customs Convention on the ATA Carnet for the temporary admission of goods 1961



	use of the ATA Carnet for the transit of goods.	
Article 4	Issuing associations shall not issue ATA Carnets with a period of validity exceeding one year from the date of issue. They shall indicate on the cover of the ATA Carnet the countries in which it is valid and the names of the corresponding guaranteeing associations. Once an ATA Carnet has been issued no extra item shall be added to the list of goods enumerated.	Article 4 governs the issuance and use of the ATA Carnet and highlights the particulars of a valid ATA Carnet, such as timing and precision.
Article 5	The period fixed for the re-exportation of goods imported under cover of an ATA Carnet shall not, in any case, exceed the period of validity of that Carnet.	This is procedural to avoid expiration of the ATA Carnet before the goods are re-exported.
Article 6	Article 6 of the Convention provides for the guarantees of the ATA Carnet. Each guaranteeing association shall undertake to pay to the Customs Authorities of the country in which it is established the amount of the import duties and any other sums payable in the event of non-compliance with the conditions of temporary admission. The liability of the guaranteeing association shall not exceed the amount of the import duties by more than ten percent. Note that there is a time	This article highlights the provisions for breach of the ATA Convention conditions imposing liability of the issuing association.



	<p>limit on claims brought against a guaranteeing association for payment. Claims must be brought within a year of the date of expiry of the validity of the ATA Carnet.</p>	
Article 7	<p>Article 7 provides for the regularization of ATA Carnets. It provides that the guaranteeing association shall have a period of six months from the date of the claim made by the Customs Authorities to furnish proof of the re-exportation of the goods under the conditions laid down in the present Convention.</p>	<p>This is the beginning of discharging the ATA Carnet.</p>
Article 8	<p>Article 8 speaks to the re-exportation of goods imported. The issuing association must furnish proof that the goods have been re-exported to avoid liability. Evidence of re-exportation of goods imported under cover of an ATA Carnet shall be provided by the re-exportation certificate completed in that document by the Customs Authorities of the country into which the goods were temporarily imported. In any case in which the Customs Authorities of a Contracting Party waive the requirement of re-exportation of certain goods admitted into</p>	<p>This provision provides direction as to how the issuing association can prove re-exportation which is by way of a re-exportation certificate. This makes provision for the circumstances where re-exportation is waived which can be effected only when it is certified in the ATA Carnet.</p> <p>Article 8(3) shows that there can be a situation where the goods are not re-exported, and the issuing association bears no liability.</p>



	their territory under cover of an ATA Carnet, the guaranteeing association shall be discharged from its obligations only when those authorities have certified in the document that the position regarding those goods has been regularized.	
Article 9	Article 9 of the Convention speaks to the right to charge a regularization fee.	

Table 2: The major provisions of the ATA Carnet Istanbul Convention⁷

Article	Summary of the provisions	Comments
Article 1	Article 1 describes terms used throughout the Convention, such as temporary admission, import duties and taxes, security, temporary admission papers, Customs or Economic Union, person, the Council and ratification.	This is to ensure the terms when used in the subsequent provisions are understood.
Article 2	Article 2 assesses the scope of the convention and the fundamental obligations of parties to the convention.	Parties to the Istanbul Convention become obligated to grant temporary admission to the listed goods with complete relief from import duties and taxes.
Article 3	According to Article 3 the annexes to the convention contain the definitions of the main customs terms used therein and	Each annex permits the temporary admission of goods for a specific use. For instance,

⁷ Convention on Temporary Admission 1990. See [Istanbul_Convention.pdf](#)



	special provisions applicable to the goods.	Annex B.1 covers goods to be displayed or used at trade fairs and exhibitions.
Article 4	Article 4 considers the documents and security procedures in the ATA Carnet system. The security provided shall not exceed the amount of import duties and taxes from which the goods are conditionally relieved. Additional security may also be for goods subject to import prohibitions or restrictions under national legislation.	To ensure fairness, any security provided cannot surpass regular duties and taxes.
Article 5	Article 5 describes the function of the temporary admission papers. Contracting parties accept that instead of national Customs documents and as due security, the temporary admission papers are valid to be used for temporarily imported goods.	When in possession of the holder, the temporary admission papers act in lieu of domestic Customs documents and as security.
Article 6	Article 6 states that contracting parties can require that the goods be identifiable when temporary admissions goods is terminated.	
Article 7	Article 7 establishes that there is a fixed period for re-exportation of goods which can be extended. If the goods are seized or cannot be exported within this period for some other reason the obligation to re-	Typically, the period for re-exportation is one year.



	export is suspended for the period of seizure.	
Article 8	Article 8 allows the Contracting Party to transfer the benefit of the temporary admission procedure to an alternative person one they satisfy the conditions and accepts the duties therein.	
Article 9	Article 9 clarifies that temporary admission is terminated by re-exportation.	
Article 10	Article 10 permits the goods to be re-exported in a single or multiple shipment.	
Article 11	According to Article 11, the temporarily exported goods can be exported via a Customs office other than the one through which they were imported.	This becomes particularly relevant in large jurisdictions with numerous ports or where an alternative method of transport is being used.
Article 12	Article 12 permits the competent authorities to terminate the agreement for temporary admission by placing the goods in a free port or free zone, Customs warehouse or under a procedure for transit for later exportation.	
Article 13	Article 13 permits the foreign state to terminate temporary admission for domestic use of the goods.	



Article 14	According to Article 14 damage to the goods by accident or force majeure is sufficient grounds to terminate admission. Where terminated at the request of the holder for these reasons, the holder remains free of payment of import duties and taxes.	Considering that damaged or completely destroyed goods essentially lose the value, it is fair to prohibit the payment of import duties and taxes for valueless or nonexistent goods.
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2.3 Goods that will be covered by the ATA Carnet

16. From the provisions of the Convention it can be seen that the ATA Carnet is limited in scope. However, it can be a tool useful to a number of professionals. These include:

- (a) **Business Executives:** These professionals are essential to the success of any business. They travel frequently and would normally carry with them devices for presentations. Upon arrival to a country they are required to pay high customs duties on these devices pursuant to the Goods Schedule of Concessions. However, using the ATA Carnet any professional equipment can be imported and exported without the normal customs duties.
- (b) **Trade Fair Exhibitors:** This is the most popular use of the ATA Carnet. Exhibitors export their exhibits using the ATA Carnet and they are imported temporarily without customs duties into the country for their exhibition. This allows goods to be promoted without excess cost that can be a strain to these Exhibitors.
- (c) **Technicians:** This is of particular importance to the energy and manufacturing industry. Technicians in CARICOM States can use the ATA Carnet to send their tools to Brazil where they will be working on repairs in factories or energy plants without the excess customs duties for tools which they will be taking back to their home country once their work is completed.



- (d) **Surgeons:** The Caribbean as a small region does not have surgeons and medical professionals who are experts in every field. The ATA Carnet provides an opportunity for doctors from Brazil to come to the Caribbean on specialist projects, sending their equipment which can be quite costly once imported. However, with the ATA Carnet such equipment would not attract normal customs duties and can be easily exported back to the health professional's home country.
- (e) **Entertainers:** The Caribbean has a rich entertainment industry. The ATA Carnet can be useful to entertainers in this industry. They will be able to temporarily export their equipment such as DJ booths and sound systems to Brazil for their shows and re-import to their home countries once the entertainment shows have concluded.
- (f) **Film Crew:** The ATA Carnet affords Brazilian film makers the opportunity to come to the Caribbean and produce films. They can export for example, cameras, headphones and light reflectors without the high cost of customs duties.

17. The ATA Carnet usually covers commercial samples, goods used for display and professional equipment. A typical list of goods covered by the ATA Carnet is highlighted below.

Table 3: Goods that can be imported using the ATA Carnet

Commercial Samples	Goods to be used for display	Professional Equipment
Canned food	Footwear	Computers
Perfume	Toys	Office equipment
	Paintings	Transformers
	Jewelry and Precious stones	Electric generators



	Crockery	Surgical and Dental equipment
	Objets d'art	Sound and Television Broadcasting equipment and Hi-fi and Audio-visual or photographic apparatus
	Clothing	Cinematographic equipment
	Theatrical costumes	Films
		Motor vehicles
		Heating and lighting equipment
		Furniture
		Display material
		Machine tools

18. From the list above it can be determined that the temporary admission covered by the ATA Carnet applies to goods which will be re-exported in their original form. CARICOM or Brazilian artists and doctors can conveniently send their equipment to their destination as the form on re-exportation will be the same as was on importation. CARICOM goods such as canned goods, crockery, jewelry can be exported to Brazil for exhibitions and trade fairs in an attempt to promote CARICOM goods. The goods cannot be sold within Brazil when they are exported. After the event they must be re-exported within a year in the same condition as when they were imported.

19. Certain goods, however, cannot be imported under cover of ATA Carnets, such as perishable or consumable items, as they would not normally be re-exported in their original form, or goods intended for transformation, processing, or repair. A list of such goods is outlined below.⁸

⁸ International Chamber of Commerce, 'ATA Carnet' (*Resources for Business*, n/a) <https://iccwbo.org/resources-for-business/ata-carnet/> accessed 1 March 2020



Table 4: Goods that cannot be imported under the ATA Carnet

Goods to be sold	Perishable or consumable goods	Items intended to be given away	Goods intended for processing or repair
Agricultural products	Agricultural products	Paint	Raw Materials
	Beverages	Brochures and leaflets	
		Cleaning materials	

20. Agricultural products and beverages are top CARICOM products. Unfortunately, these cannot be imported into Brazil through the use of the ATA Carnet as they are perishable and cannot be re-exported in their original form. Thus, the ATA Carnet would not be of assistance to farmers and beverage producers who are desirous of testing the Brazilian market.

2.4 Summary

21. The ATA Carnet is a standardized international document that allows the export, import and transit of goods for parties to the ATA Convention. When used, the holder incurs no customs duties or taxes. Considering that the goods must exit the country within a year, perishable goods are not permitted. Before the passport for goods can be used, states must accede to the ATA Convention and establish a National Guaranteeing Association.



3. ATA Carnet Structure and Process

- *Section 3.1 outlines the ratification, accession and approval of the ATA Convention as well as the lead ministry that will undertake the process. This section assesses Trinidad & Tobago's experience with the ATA system.*
- *Section 3.2 provides a synopsis of the process of the ATA Carnet system, detailing the important role that the guaranteeing associations have in administering a local ATA Carnet system.*

3.1 Becoming signatories to the ATA Carnet system

22. CARICOM States must become signatories to the ATA Convention to effectively use the system with Brazil. Considering that States in the Commonwealth Caribbean are dualist,⁹ international law is not directly applicable in municipal law; they are two separate legal systems. Thus, not only must CARICOM States become signatories to the Convention, each state party must ratify the Convention for it to take effect.

23. The Constitution governs the ratification, accession, approval, or acceptance of international law. Typically, the ratification process involves various lengthy steps. The first would involve a preparatory analysis and collection of documentation to be undertaken by a lead ministry such as for Barbados, the Ministry of Foreign Affairs and Foreign Trade. This lead ministry would consult with the government's legal department in the Attorney General's Office and also with the Ministry of Finance, Economic Affairs and Investment for technical support as it regards the instruments of ratification. A declaration would be made along with the submission of the instrument of ratification to clarify the understanding of any specific clauses of the treaty, or to specify the scope of application of the treaty. After completion of the process outlined above, the Ministry of Foreign Affairs and Foreign Trade will prepare the instrument of ratification, and an instrument of declaration if necessary. Finally, ratification becomes effective only upon deposit of the instrument.

⁹Rose-Marie Belle Antoine, *Commonwealth Caribbean Law and Legal Systems* (2nd edn, Routledge 2008) 205. See *AG et al v Joseph & Boyce* CCJ Appeal No CV 2 of 2005 at para 74.



24. Once the Convention is ratified, the Convention would be transposed into national law as statute so it takes effect in the implementing state. The Convention will require CARICOM States to establish an ATA Guaranteeing Association which will regulate and issue the ATA Carnet.

3.2 The process of the ATA Carnet

25. In every country that has ratified the ATA Convention, a National Guaranteeing Association (NGA)¹⁰ – approved by its customs department and the International Chamber of Commerce World Chambers Federation – administers the operation of the ATA Carnet System.¹¹ The role of the NGA¹² is to guarantee to its customs administration the payment of duties and taxes due when ATA Carnets have been misused in its territory, for instance, non or late re-exportation of goods. The national guaranteeing associations can also, with the prior consent of its customs administration, authorise local chambers to deliver ATA Carnets on its behalf. In major trading nations, dozens of local chambers have that authority. In smaller countries in the Caribbean, such as Barbados, there would likely be only one NGA. Within ICC World Chambers Federation, a World ATA Carnet Council gathers the national guaranteeing associations from all countries where the ATA Carnet is in force today.

26. The ATA Carnet System is based on the principle of reciprocity between Member Nations. The International Bureau of Chamber of Commerce (IBCC) has set up an international customs surety's chain to effectuate this principle. The government of each nation which becomes a Contracting Party to the Convention is required to appoint a top-level Chamber of Commerce as the NGA. The function of issuing and guaranteeing ATA Carnets may be further delegated to local Chambers of Commerce but under cover of the guarantee of the NGA. To explain the operation of the guarantee system, let us consider the case of two countries: Country A, which exports goods, and Country B, which imports goods under the ATA

¹⁰ International Chamber of Commerce (n8)

¹¹ *ibid*

¹² *ibid*



Carnet. A business in Country A wants to export exhibition material to Country B. The business must obtain an ATA Carnet from the NGA of Country A. Under cover of the ATA Carnet, the goods will be brought to Country B. If the goods are re-exported from Country B, all liabilities under the ATA Carnet cease. However, if the goods are not re-exported, the NGA in Country B will be liable to the Customs Authorities of Country B for import duty on the goods and any other sums due in the event of non-compliance with the conditions of temporary admissions or transit applicable in Country B. This liability is, however, limited to a maximum of 10 percent in excess of the amount of import duty.

27. Having discharged the liability of the Customs Authorities in Country B, the NGA of Country B will make a claim on the NGA of Country A which issued the Carnet. It will then be the responsibility of the NGA of Country A to settle the account with the NGA of Country B. The NGA of Country A will then proceed to recover such an amount from the exporting firm.

28. The NGA in each nation stands as guarantor to the Customs Authorities in that nation for the payment of import duties on goods covered by an ATA Carnet which have not been re-exported. The NGA of Country A guarantees reimbursement of the duties paid by the NGA of Country B in respect of the ATA Carnet issued by Country A and, finally, the exporting business must guarantee payment of duties on goods not re-imported by the exporting business to the NGA that issued the Carnet (Country A). The IBCC has detailed a procedure for settlement of accounts between the NGAs of member countries.¹³ To ensure that restriction on foreign exchange remittance in individual nations does not hinder the settlement of accounts, the IBCC also insists on a letter from the national authorities (in the case of India, the Reserve Bank of India) empowering the NGA to receive/remit all funds in connection with the operation of the ATA Carnet System.

29. The IBCC recommends that the NGA protect itself against default by the exporting firm to which an ATA Carnet is issued by a security deposit in cash, stocks, and shares or the freezing of funds on deposit;

¹³ Protocol between the Guaranteeing Associations 1992



a joint and several undertaking by solvent, natural or corporate persons, or banks, insurance companies or guarantee organizations authorized to guarantee such operations. To avail the ATA Carnet service, a security deposit equivalent to the import duty applicable in the country of destination, plus a further 10%, is required. The deposit must be in the form of bank guarantee or cash deposit.

30. The guarantor should cover the highest possible import duties, all sums payable by the NGA for failure to fulfill the conditions governing temporary exports and imports, plus an extra 10 percent. It is also recommended that the exporting firm insure itself against the risk of marine hazard, fire, theft, or destruction, as the customs authorities do not normally agree to abandon claims for duty on goods lost or destroyed. Once the goods have been re-exported, the ATA Carnet is discharged. Evidence of such re-exportation may be provided by a certificate of re-exportation completed in the ATA Carnet by the customs authorities of the host country.

31. In the event of fraud, contravention or abuse, each country is free to institute proceedings against the beneficiaries of the ATA Carnet for the recovery of import duties and other sums payable and the imposition of penalties. The NGA is expected to cooperate with the customs authorities in this regard.¹⁴ There are no cases regarding breach of the ATA Carnet. This suggests that countries comply with their obligations. Disputes between countries are however settled by way of negotiations and meetings as provided by the ATA Convention.¹⁵

¹⁴ GK Kwatra, 'India and the Convention on Temporary Duty-Free Admission of Goods' [1997] 25(6-7) Intertax 277-280

¹⁵ Customs Convention on the ATA Carnet 1961, Article 19

Figure 1: Flowchart showing the process of the ATA Carnet



3.3 Summary

32. Since CARICOM States are dualist in nature, governments are required to input treaties into national law before they become binding and effective. For the purposes of the ATA Carnet, this process shall be undertaken by the Ministry of Foreign Affairs and Foreign Trade in Barbados. Once fully implemented, the ATA Carnet System is administered by the National Guaranteeing Association (NGA) which is responsible for monitoring the issuance and use of the documents. In the event that the goods are not duly re-exported, the NGAs will cover the payable custom duties, which are recoverable from the defaulting firm.



CARICOM States may stand to reap significant benefits if an ATA Carnet System is established in the region to signal to trade giants like Brazil that the region is open for business.



4. The Trading relationship between CARICOM and Brazil

- *Section 4.1 analyzes the current trading relationship between CARICOM States and Brazil, outlining existing agreements and the scope of engagement of particular CARICOM member states.*
- *Section 4.2 addresses the trade imbalance between Brazil and CARICOM. This section also considers CARICOM's trade deficit in comparison with Brazil's consistent growth in the global trade arena.*
- *Section 4.3 provides the justification for CARICOM States having an interest in developing a strong trade relationship with Brazil in light of their large and diversified industrial sector.*
- *Section 4.4 emphasizes the need for CARICOM States to expand their trading relationships in Latin America through Brazil.*

4.1 The current relationships between CARICOM and Brazil

33. It has been argued that traditionally, CARICOM States have not enjoyed strong collaborative linkages with Latin American countries in general, and with Brazil in particular. Several reasons have been advanced, including the view that the impact of colonial bilateralism, which constrained the emergence of strong relations between the English-speaking CARICOM States and their Spanish and Portuguese-speaking neighbours.¹⁶ Further, arguments such as linguistic differences, levels of development, differences in physical and population size, natural resource endowments and the presence and persistence of strong external cultural influences have also been advanced.¹⁷

¹⁶ Tanisha Tingle-Smith, "The New Geography of Brazil-Caribbean Economic Cooperation: How Brazil is Bridging the Hemispheric Divide with the Caribbean" Experts Panel Conference Paper Conference on the Caribbean: A 2020 Vision June 2007

¹⁷ *ibid*



34. Three CARICOM States, Guyana, Suriname, and Trinidad & Tobago have engaged with Brazil more deeply than the other CARICOM States. Proximity is arguably the influential factor in these relations. Brazil shares significant borders with Guyana and Suriname. Trinidad & Tobago is the next closest CARICOM State geographically. There is a Bilateral Investment Treaty (BIT) between Guyana and Brazil¹⁸ as well as the International Road Transport Agreements which eases the movement of passengers and goods between both countries.¹⁹ An air service agreement, which was updated in 2017, also exists between Guyana and Brazil. In 2015, the first direct flight between Brazil and Trinidad & Tobago was inaugurated.²⁰ Negotiations to implement an air services agreement signed in 2008 by the two nations are ongoing.

35. Bilateral relations between Brazil and the wider CARICOM have been confined largely to diplomatic presence and fora where strategies for development in various areas are discussed. For instance, Barbados and Brazil established diplomatic relations on 26 November 1971,²¹ and since then the two countries have collaborated in the area of education.²² Recent years have recorded growing rapprochement between Brazil and Barbados, as evidenced by the opening of the Embassy of Barbados in Brasilia, in April 2010.²³ Even before then, between 2002 and 2013, 20 Barbadian undergraduate and graduate students received the opportunity to study in Brazil under cooperation agreements concluded by both nations.²⁴

36. Outside of diplomatic relationships CARICOM there are signs of change given the CARICOM-Brazil Summit in 2010 where the Head of State and Government of Brazil met with CARICOM Heads of Government. There was a mutual desire for closer collaboration and cooperation. These include joint action for combating the anticipated impact of climate change, in the area of education which include to expand

¹⁸ Brazil-Guyana BIT (2018)

¹⁹ International Road Transport Agreement between Guyana and Brazil (2003)

²⁰ Brazil Ministry of Foreign Affairs, 'Republic of Trinidad and Tobago' (Diplomatic and Consular Relations, 2019) <http://www.itamaraty.gov.br/en/ficha-pais/11777-republic-of-trinidad-and-tobago> accessed 6 June 2020

²¹ Brazil Ministry of Foreign Affairs, 'Barbados' (Diplomatic and Consular Relations, 2019) <http://www.itamaraty.gov.br/en/ficha-pais/10605-barbados-en> accessed 15 May 2020

²² Nilanjan Ray and others, *Strategic Infrastructure Development for Economic Growth and Social Change* (Business Science Reference 2015) 281

²³ *ibid*

²⁴ *ibid*



the number and disciplines of Brazilian lecturers at the University of the West Indies in Barbados, Jamaica and Trinidad and Tobago as well as at the National Universities of Haiti, Guyana and Suriname. They also intended to reciprocate by promoting the establishment of Caribbean studies centres at high educational institutions in Brazil. In the area of agriculture, discussions to maximize cooperation in the field of agriculture, livestock, and aquaculture research and the implementation of joint agricultural projects, were had. In the area of trade, they agreed to stimulate and embrace Brazil's participation in trade and industrial fairs in CARICOM States as well as representation of CARICOM States and relevant agencies in similar fairs in Brazil.²⁵

37. The absence of a trade agreement between Brazil and CARICOM States has left the Parties to trade under the existing WTO rules, mainly the General Agreement on Tariffs and Trade (GATT) 1994 which regulates trade in goods and the General Agreements on Trade in Services (GATS) 1994 which regulates trade in services. Goods and services originating from both countries must comply with the basic principles of the WTO, mainly the Most Favoured Nation Principle (MFN), the National Treatment principle, Schedules of Concession, and Schedules of Commitments.

38. The trade policy of CARICOM is expressed in chapter five (5) of the Revised Treaty of Chaguaramas (RTC). More specifically, part one (1) deals squarely with the objectives of the Community trade policy as well as the manner in which trade relations with third parties are shaped.²⁶ In effect, the Community is encouraged to subscribe to trade agreements, including trade conventions like the ATA Convention, that will secure the mutually beneficial exchange of goods and services between the Community and third States.²⁷ States should, as far as practicable, harmonise their negotiating strategies and representations when concluding mutually beneficial trade agreements with third parties.²⁸ Consequently, all CARICOM States

²⁵ Caribbean Community (CARICOM) Secretariat, 'BRASILIA DECLARATION ISSUED BY THE FIRST CARICOM-BRAZIL SUMMIT, 26 APRIL 2010, BRASILIA, BRAZIL' (Communications, 26 April 2010) https://web.archive.org/web/20101213213254/http://caricom.org/jsp/communications/meetings_statements/brasilia_declaration.jsp 18 June 2020

²⁶ Articles 78-81 Revised Treaty of Chaguaramas (2001)

²⁷ Article 78(1) Revised Treaty of Chaguaramas (2001)

²⁸ Article 78(3)(a) Revised Treaty of Chaguaramas (2001)



must accede to the ATA Convention; Barbados is prohibited from pursuing this undertaking as a single state because doing so will undermine its obligations under the treaty. Instructively, all EU States have acceded to and ratified the ATA Convention as a single bloc, since they operate under a comparable arrangement. Notwithstanding the above information, each member state is required to establish its own NGA.

39. Article 80 of the RTC permits Member states to, in limited circumstances, pursue bilateral agreements in accordance with their national interests. These bilateral agreements it must be negotiated without prejudice to the obligations under the RTC and before conclusion, the CARICOM secretariat must certify that the agreements do not purport to disadvantage other Member States in accordance with the Treaty.²⁹ Further, negotiations concerning tariff concessions require approval from the Council for Trade and Economic Development (COTED).³⁰ Therefore, if other Member States for economic, political or social reasons reject the ATA Carnet system and complementary agreements necessary, Barbados is unrestricted to commence bilateral agreements with Brazil under the ATA Carnet system, once such arrangements provide against deflecting a significant trade interest into other member states. Such agreements will also have to be submitted to the CARICOM Secretariat, in accordance with Article 81 of the RTC.

40. The information above illustrates an insufficient relationship between Brazil and CARICOM. By the same token, it indicates a strong foundation upon which a powerful alliance can be nurtured and strengthened.

4.2 Trade imbalance between Brazil and CARICOM

41. CARICOM States incurred a significant merchandise trade deficit with Brazil from 2014 to 2018. In the case of Barbados, the trade deficit saw a decline between 2015 and 2018, falling from USD -

²⁹ Article 80(3) Revised Treaty of Chaguaramas (2001)

³⁰ Article 80(4) Revised Treaty of Chaguaramas (2001)

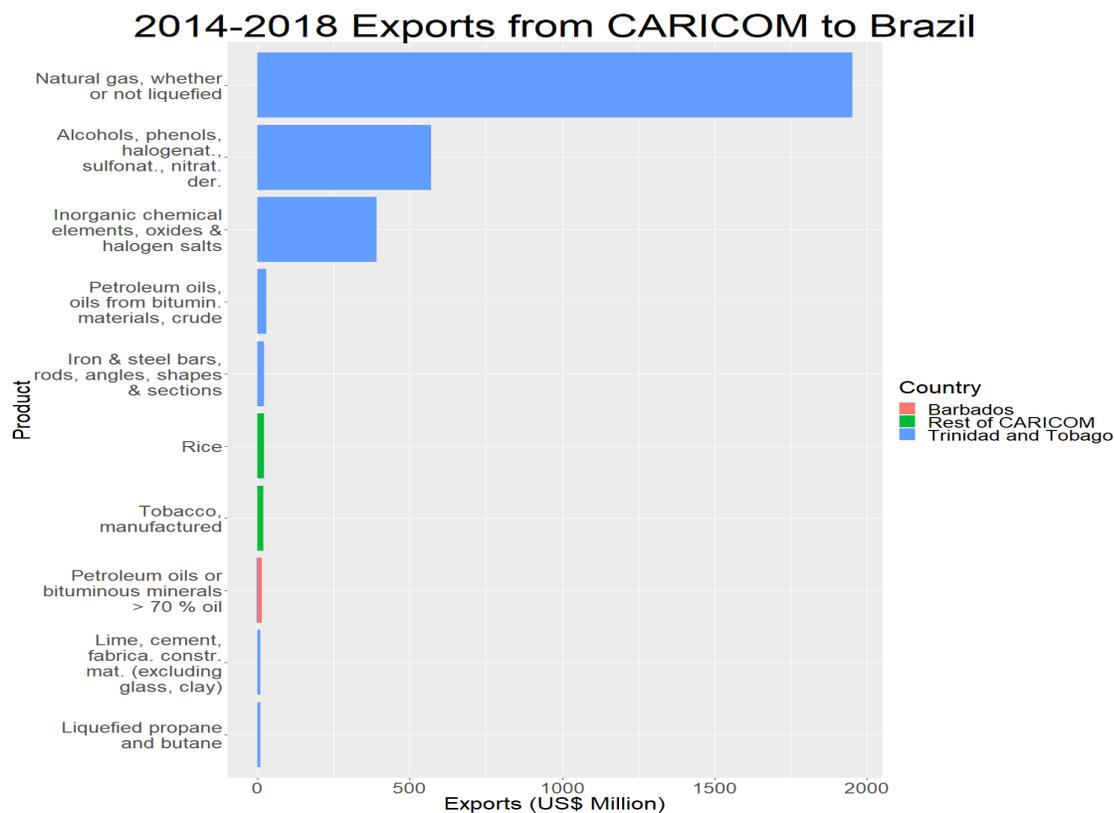


\$22,688,390 in 2015 to USD -\$17,384,030 in 2018. However, the average deficit for the same period was USD -\$19,716,385.³¹

³¹ International Trade Centre, 'Trade statistics for international business development Monthly, quarterly and yearly trade data Import & export values, volumes, growth rates, market shares, etc' (Trade Map, 2019) https://www.trademap.org/Bilateral_TS.aspx?nvpm=1%7c%7c37%7c076%7c%7cTOTAL%7c%7c%7c2%7c1%7c1%7c1%7c2%7c1%7c1%7c1%7c1%7c1 accessed 15 May 2020

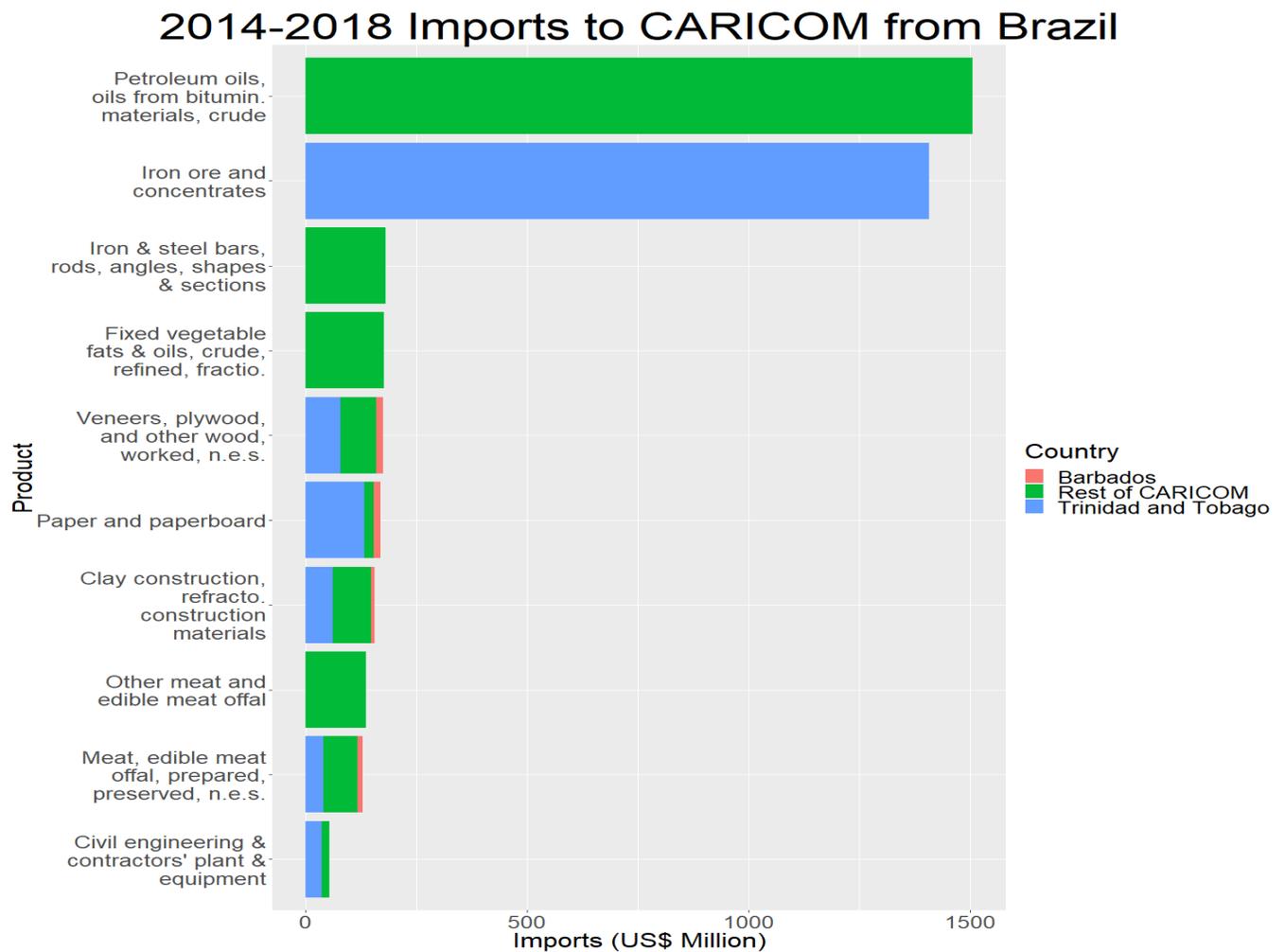
International Trade Centre, 'Trade statistics for international business development Monthly, quarterly and yearly trade data Import & export values, volumes, growth rates, market shares, etc' (Trade Map, 2019) https://www.trademap.org/Bilateral_TS.aspx?nvpm=1%7c076%7c%7c%7c37%7cTOTAL%7c%7c%7c2%7c1%7c1%7c1%7c2%7c1%7c1%7c1%7c1%7c1 accessed 15 May 2020

Figure 2: CARCIOM Exports to Brazil³²



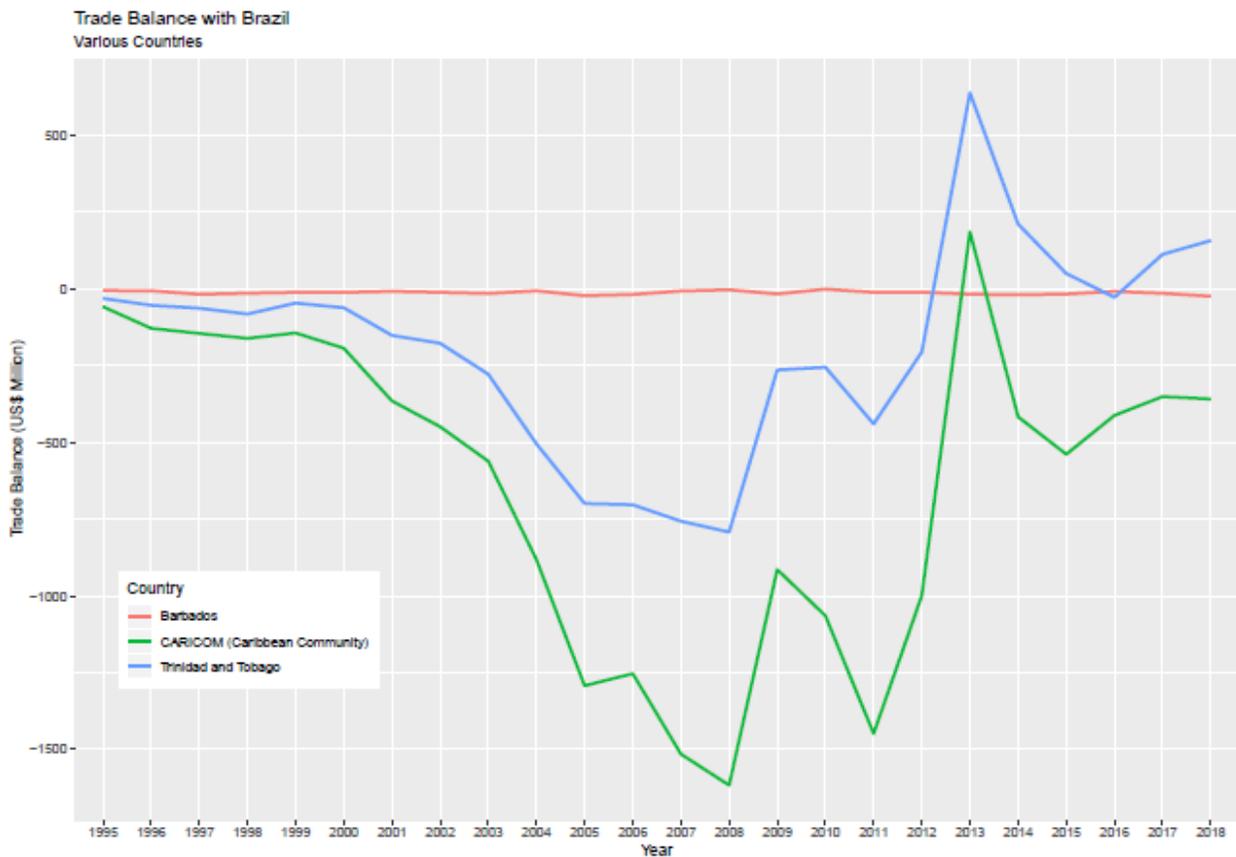
³² International Trade Centre, 'Trade statistics for international business development Monthly, quarterly and yearly trade data Import & export values, volumes, growth rates, market shares, etc' (Trade Map, 2019) https://www.trademap.org/Bilateral_TS.aspx?nvpm=1%7c076%7c%7c%7c37%7cTOTAL%7c%7c%7c2%7c1%7c1%7c1%7c2%7c1%7c1%7c1%7c1%7c1 accessed 15 May 2020

Figure 3: CARICOM Imports from Brazil³³



³³ International Trade Centre, 'Trade statistics for international business development Monthly, quarterly and yearly trade data Import & export values, volumes, growth rates, market shares, etc' (Trade Map, 2019) https://www.trademap.org/Bilateral_TS.aspx?nvpm=1%7c%7c37%7c076%7c%7cTOTAL%7c%7c%7c2%7c1%7c1%7c1%7c2%7c1%7c1%7c1%7c1%7c1 accessed 15 May 2020

Figure 4: Trade imbalance between CARICOM and Brazil³⁴



³⁴International Trade Centre, 'Trade statistics for international business development Monthly, quarterly and yearly trade data Import & export values, volumes, growth rates, market shares, etc' (Trade Map, 2019) https://www.trademap.org/Bilateral_TS.aspx?nvpm=1%7c%7c37%7c076%7c%7cTOTAL%7c%7c%7c2%7c1%7c1%7c1%7c2%7c1%7c1%7c1%7c1%7c1 accessed 15 May 2020

International Trade Centre, 'Trade statistics for international business development Monthly, quarterly and yearly trade data Import & export values, volumes, growth rates, market shares, etc' (Trade Map, 2019) https://www.trademap.org/Bilateral_TS.aspx?nvpm=1%7c076%7c%7c%7c37%7cTOTAL%7c%7c%7c2%7c1%7c1%7c1%7c2%7c1%7c1%7c1%7c1%7c1 accessed 15 May 2020



4.3 Why Brazil?

42. Brazil has undergone profound socioeconomic changes since the Great Depression of the 1930s. Its economy, which for centuries had been geared to the exportation of a small number of primary products, has become dominated by a large and diversified industrial sector.³⁵

43. Brazil has been described as one of the world's leading economies.³⁶ Brazil's ascendancy is most apparent in the wider Latin American and Caribbean region. Brazil has a developing free-market economy that is the ninth largest in the world by nominal Gross Domestic Product (GDP) and eighth largest by Purchasing Power Parity in 2019.³⁷ According to the International Monetary Fund (IMF), Brazil's 2019 nominal GDP was R\$6.826 trillion or US\$1.868 trillion.³⁸ The country has an estimated US\$21.8 trillion worth of natural resources which includes vast amounts of gold, uranium, iron, and timber.³⁹

44. Brazil has the second-largest manufacturing sector in the Americas.⁴⁰ Accounting for 28.5 percent of GDP, Brazil's industries range from automobiles, steel, and petrochemicals to computers, aircraft, and consumer durables. With increased economic stability, Brazilian, and multinational businesses have invested heavily in new equipment and technology, a large proportion of which has been purchased from US firms. This shows a presence of foreign firms in Brazil, which could offer a potential market for CARICOM goods once imported temporarily by the ATA Carnet for trade shows and exhibitions.

³⁵ Werner Baer, *The Brazilian Economy: Growth and Development* (6th edn, Lynne Rienner Publishers Inc 2013)

³⁶ pwc, *The Long View How will the global economic order change by 2050?*, Report February 2017

³⁷ TJ Trebat, *Brazil's state-owned enterprises A case-study of the state as entrepreneur* (Cambridge University Press 1983)

³⁸ International Monetary Fund, 'World Economic Outlook Database, October 2019' (Data) <https://www.imf.org/external/pubs/ft/weo/2019/02/weodata/weorept.aspx?pr.x=48&pr.y=18&sy=2017&ey=2021&scsm=1&ssd=1&sort=country&ds=.&br=1&c=223&s=NGDPD%2CPPPGDP%2CNGDPDPC%2CPPPPC&grp=0&a=> accessed 16 February 2020

³⁹ Capital Invest, 'Why Invest in Brazil' (How to Invest in Brazil) <https://www.capitalinvest-group.com/en/invest-in-brazil-ma-guide/> accessed 18 February 2020

⁴⁰ Keren Blankfeld, 'Is Brazil's Economy Getting Too Hot?' (Leadership, 13th December) <https://www.forbes.com/sites/kerenblankfeld/2010/12/13/is-brazils-economy-getting-too-hot/#1428881949c0> accessed 18 February 2020



45. Brazil adopted a foreign policy before the proclamation of independence.⁴¹ Brazil's foreign policy is a by-product of the country's unique position as a regional power in Latin America, a leader among developing countries, and an emerging world power.⁴² Brazilian foreign policy has generally been based on the principles of multilateralism, peaceful dispute settlement, and non-intervention in the affairs of other countries.⁴³ Brazil engages in multilateral diplomacy through the Organization of American States and the United Nations and has increased ties with developing countries in Africa and Asia. Instead of pursuing unilateral prerogatives, Brazilian foreign policy has tended to emphasize regional integration through both the Southern Cone Common Market (MERCOSUL) and the Union of South American Nations.

46. In Brazil, the Ministry of Foreign Relations continues to dominate trade policy, causing the country's commercial interests to be subsumed by a larger foreign policy goal, namely, enhancing Brazil's influence in Latin America and the world.⁴⁴ For example, while concluding meaningful trade agreements with developed countries such as the United States and the European Union would probably be beneficial to Brazil's long-term economic self-interest, the Brazilian government has instead prioritized its leadership role within MERCOSUL and expanded trade ties with countries in Africa, Asia, and the Middle East.

47. Over the past decade, Brazil has firmly established itself as a regional power, a leader in the Inter-American Community and played an important role in collective security efforts, as well as in economic cooperation in the Western Hemisphere.⁴⁵ Brazilian foreign policy supports economic and political integration efforts to reinforce long-standing relationships with its neighbors. It has given high priority to expanding relations with its South American neighbors and strengthening regional bodies such as the Latin

⁴¹ Jose Honorio Rodrigues, 'The Foundations of Brazil's Foreign Policy' [1962] 38(3) International Affairs (Royal Institute of International Affairs 1944-) 324-338

⁴² CM Ribando, CRS Report for Congress Brazil-US Relations (2007)

⁴³ Georges D. Landau, —The Decision making Process in Foreign Policy: The Case of Brazil, Center for Strategic and International Studies (Washington, DC), March 2003

⁴⁴ JF Hornbeck, CRS Report RL33258, Brazilian Trade Policy, and the United States (2006)

⁴⁵ US Department of State, 'US Relations With Brazil' (Diplomacy in action) <https://2009-2017.state.gov/r/pa/ei/bgn/35640.htm> accessed 20 February 2020



American Integration Association (ALADI), the Union of South American Nations (UNASUR) and Mercosur.⁴⁶ This shows that Brazil has exercised its leadership and developed consensus around its positions on regional and global issues, promoting integration through organizations like MERCOSUR and UNASUR. Brazil has been able to solidify its role as a regional power. It has sought to expand its influence in the broader region by increasing its engagement in the Caribbean and Central America.

48. It is predicted that the economy of Brazil would be ranked 7th in 2030 and 5th in 2050.⁴⁷ Over the last twenty years, however, several factors have combined to create conditions for GNP growth rates of 6-7 percent: a set of successful social programs that have increased school attendance and helped pull millions out of poverty; expanding financial and communications service sectors; increased foreign and domestic investment; and rising demand and prices for Brazil's exports.⁴⁸

49. Brazil is well-positioned to continue to rise as an important player on the global stage. From the point of view of resource abundance, especially when intensifying effects from global warming are considered, Brazil/Southern Cone stands with the United States/Canada, and Russia, as the region's best-equipped to serve as global providers of natural resources.⁴⁹

4.4 Opportunities for CARICOM

50. Between 2003 and 2012, total trade between Brazil and CARICOM States increased from US\$530,602 to US\$ 1,183,802.⁵⁰ This development has been linked to the decision of Brazil to establish embassies

⁴⁶ US Department of State (n39)

⁴⁷ Pwc(n39)

⁴⁸ Ralph Espach, 'Brazil on the Rise?' (Global Trends 2030, 8th May) <http://gt2030.com/2012/08/05/brazil-on-the-rise/> accessed 20 February 2020

⁴⁹ Espach (n42)

⁵⁰ International Trade Centre, 'Trade statistics for international business development Monthly, quarterly and yearly trade data Import & export values, volumes, growth rates, market shares, etc' (Trade Map, 2019)



across the CARICOM.⁵¹ The trade balance was in favour of Brazil. However, great economic opportunities are awaiting the region should it capitalize on the new and growing partnership. The Caribbean is yet to explore the full potential that resides in the agreements between CARICOM States and Latin America.

51. Brazil has proven to be a key player in the South region. CARICOM States should explore opportunities to penetrate the Latin American market through Brazil. This is especially important since a recent study by the Inter-American Bank revealed that Latin America and the Caribbean could accumulate an additional US\$11 billion if all preferential agreements are composited into one free trade agreement.⁵² Interestingly, the study also concluded that Brazil, owing to its size, is positioned to be a key player in any meaningful integration movement.⁵³

52. A stronger bilateral relationship with Brazil will radically transform the Caribbean's trade and economic position within Latin America. However, if the Caribbean is to reap the full benefits of this trading relationship, it must push to secure equal footing with Brazil in negotiating the parameters of their bilateral trade and investment engagement.⁵⁴ This is no easy task for the Caribbean as a set of small-size economies; its bargaining power to advance trade priorities is asymmetric in comparison to Brazil. The region, even in the context of CSME, must boost its market productivity and export promotion measures to ensure the development of mutually productive export trading links so that the investment traffic is not all one-way. The current terms of trade indices highlight Brazil's favor, with most of the trade value representing export

https://www.trademap.org/Bilateral_TS.aspx?nvpm=1%7c%7c37%7c076%7c%7cTOTAL%7c%7c%7c2%7c1%7c1%7c1%7c2%7c1%7c1%7c1%7c1%7c1%7c1 accessed 15 May 2020

International Trade Centre, 'Trade statistics for international business development Monthly, quarterly and yearly trade data Import & export values, volumes, growth rates, market shares, etc' (Trade Map, 2019) https://www.trademap.org/Bilateral_TS.aspx?nvpm=1%7c%7c076%7c%7c%7c37%7cTOTAL%7c%7c%7c2%7c1%7c1%7c1%7c2%7c1%7c1%7c1%7c1%7c1%7c1 accessed 15 May 2020

⁵¹ CARICOM, 'CARICOM, BRAZIL TRADE HAS TRIPLED IN A FEW YEARS: BRAZIL ENVOY TO CARICOM' (PRESS RELEASES, 12 November 2014) <https://caricom.org/caricom-brazil-trade-has-tripled-in-a-few-years-brazil-envoy-to-caricom/> accessed 16 February 2020

⁵²International Development Bank , 'Latin America and Caribbean single free trade agreement would reap \$11 billion windfall, IDB study shows' (News Released, 29 May 2018) <https://www.iadb.org/en/news/latin-america-and-caribbean-single-free-trade-agreement-would-reap-11-billion-windfall-idb> accessed 16 February 2020

⁵³ *ibid*

⁵⁴ Tingle-Smith (n16)



from Brazil. This will open up great opportunities for businesses prepared to make long-term investments in these markets. In order to succeed, companies cannot withhold investments and adopt a ‘wait and see’ approach or they risk losing out to more nimble domestic and foreign competitors.⁵⁵ Establishing strategic local partnerships could also be important for new entrants to target future growth in emerging markets, with a focus on understanding local consumer preferences and competing with domestic brands that initially have a better understanding of the local market.

53. In order to develop trade and commercial relations with Brazil, it is also important that CARICOM States move swiftly to tap the large Brazilian market and establish niches for CARICOM products. It is therefore imperative that CARICOM States seek to increase trade with Brazil, especially the southern states which are geographically proximate to Brazil. The challenge, therefore, is for CARICOM States to ensure that they take advantage of Brazil’s desire to facilitate the expansion of trade with the region and develop aggressive marketing strategies to offset the current trade imbalance. This can effectively be done through the use of the ATA Carnet, which would allow an assessment of the market. CARICOM States would be able to, through assessing the market, decide on whether and how to establish niches which would in effect increase trade with Brazil.

54. Instead of adopting a ‘wait and see’ approach CARICOM States should use the ATA Carnet to assess the market in Brazil to determine which products would be profitable for CARICOM exporters. This will create opportunities for businesses prepared to make long-term investments. The ATA Carnet provides for temporary import which will allow CARICOM exporters to understand the local or even international consumer preferences and the competition with domestically brands. CARICOM States must embrace this opportunity before other countries take advantage and it becomes difficult to compete.

⁵⁵ pwc (n39) 56



4.5 Summary

55. Despite the existence of numerous agreements, the trading relationship between CARICOM States and Brazil has ample room for development. Some CARICOM States such as Guyana, Suriname and Trinidad & Tobago have been more successful than others, however this is largely due to geographical proximity. Currently, the GATT and GATS basic principles provide the legal framework for trade between CARICOM States and Brazil, however, CARICOM States has a history of thriving under preferential agreements. The precarious nature of CARICOM's current position in the global trade arena requires the pursuit of a stronger trading relationship with Brazil. Brazil's boasts a diverse manufacturing sector, rich foreign policy, and trade dominance in the South American, setting its economy to be ranked 5th in 2050. A trading relationship with Brazil also gives CARICOM the opportunity to expand its reach into other Latin American states.



5. Why the ATA Carnet is the tool to build (trading) relations with Brazil?

- *Section 5.1 provides an analysis of the unique benefits that CARICOM States can derive from ratifying the ATA Convention such as cost reduction and simplified customs procedures.*
- *Section 5.2 outlines the Regime Especial de Admissão Temporária which is a possible substitute to the ATA Carnet system.*
- *Section 5.3 sets out the advantages and success of the ATA Carnet system as reflected in the continuous increase in states that use the system.*
- *Section 5.4 provides case studies of countries, businesses and global events that successfully used the ATA Carnet to avoid customs duties and taxes.*

5.1 Benefits of the ATA Carnet

56. CARICOM States should become signatories to the ATA Convention and ratify the instrument to effectively use the system with Brazil. The ATA Carnet has many benefits for international trade. The two main benefits are:

- a. **Cost reduction:** Perhaps the most attractive element of the ATA Carnet is that it significantly reduces costs to the exporter. The ATA Carnet eliminates value-added taxes (VAT), duties, and the posting of security normally required at the time of importation. CARICOM exporters cannot afford the risk involved in sending goods to Brazil for sale without having an assessment of the market nor can they afford to send goods to Brazil for trade fairs which would be subject to duties and taxes under the Brazilian Schedule of Concession which can be a burden for small businesses.
- b. **Simple customs procedures:** Additionally, there is a practical benefit of the ATA Carnet in that it simplifies customs procedures as it allows a temporary exporter to use a single document



for all customs transactions, make arrangements for entry to many countries in advance, and do so at a fixed cost. Any duties and taxes that may otherwise arise are waived merely by the presentation of the ATA Carnet and its acceptance by customs offices. There is, therefore, no need to provide a cash deposit or other methods of security.⁵⁶ The seals affixed or the identification of the goods by a customs office can be recognized by the customs offices of other Contracting Parties where the goods subsequently pass. This facilitates customs controls and saves the Carnet holder time when the goods cross frontiers.⁵⁷ Goods imported into Brazil may be subject to complicated customs procedures which a CARICOM exporter may have difficulty understanding. The language barrier must also be considered as most CARICOM States are English-speaking and the native language in Brazil is Portuguese. Under normally circumstances, there is a necessity to communicate with customs officials in obtaining import licences, calculating cost of imports, determining value among other things. The ATA Carnet avoids these complicated situations as there is little to no communication which can benefit small business as they will not require to speak Portuguese which they lack the requisite knowledge.

57. International businesses enjoys considerable simplification of customs formalities. No import duties or taxes are collected for the temporary importation of goods covered by the system since internationally valid security has been established by the International Chamber of Commerce issuing the ATA Carnets. These national associations are approved by customs and are affiliated to an international guaranteeing chain administered by the IBCC. The ATA Carnet is now the document most widely used by the businesses for international operations involving temporary admission of goods. The ATA Carnet is however not unique as there exist similar alternatives.

⁵⁶ *ibid*

⁵⁷ *ibid*



5.2 Alternatives to the ATA

58. In Brazil there is a special regime that grants total or partial exemption of taxes due to the entry of some goods in the country known as Regime Especial de Admissão Temporária (Special Temporary Admission Regime). It is a special customs regime that allows the entry of goods in Brazil, provided that they enter the country with a specific purpose and for a certain period of time. This regime, as with the ATA Carnet, grants total or partial exemption of payment of taxes due, provided that the importer commits themselves to exporting the goods out of Brazil.

59. This regime has a similar effect to the ATA Carnet regarding export-re-importing. However, the user must satisfy a number of qualifications. The Special Temporary Admission Regime will be granted to travelers residing abroad and who are entering Brazil with goods with an overall value of more than USD\$3,000. The traveler should present the goods admitted under the Special Temporary Admission Regime to customs inspection. The traveler should provide information at customs concerning their return abroad and maintain this updated data with an office of Receita Federal (the Federal Revenue).

60. The goods covered by this regime are similar to those covered by the ATA Carnet which includes: clothing, accessories and personal adornments, hygiene and beauty products, binoculars and cameras, accompanied by compatible quantities of batteries and accessories, portable devices for recording or reproduction of sound and image, accompanied by compatible quantities of the corresponding physical means of support of the recordings, batteries and accessories, portable musical instruments, cell phones etc. Although alternatives exist there is increasing use of the ATA Carnet.

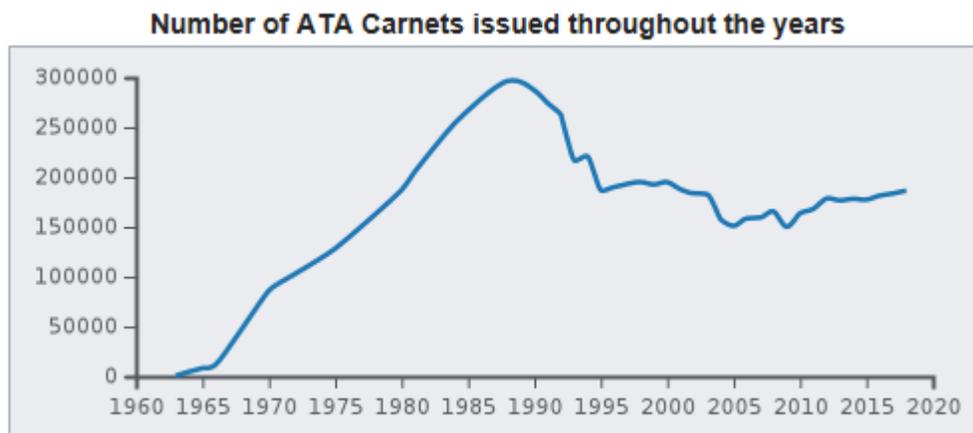
61. Despite these similarities, the ATA Carnet is a better alternative because users have access to a larger market, that is, Brazil and other Parties to the Convention. The following section will further illustrate the increasing prevalence on the ATA Carnet.



5.3 Increasing number of ATA Carnets

62. The practical advantages and the success of the ATA Carnet system are clearly reflected in the increasing number of countries joining the system, as well as in the steady growth in the number of ATA Carnets issued and the value of goods temporarily imported.

Figure 5: The number of ATA Carnets issued by countries since the 1960s⁵⁸



63. From starting in 1961, the ATA Carnet has now grown to over 180, 000 per year globally. The instrument is accepted in seventy countries.⁵⁹

⁵⁸ International Chamber of Commerce, 'ATA Carnet' (*Resources for Business*, n/a) <https://iccwbo.org/resources-for-business/atacarnet/#:~:text=ATA%20Carnets%20are%20international%20customs,valued%20at%20US%24%2026%20billion>, accessed 1 March 2020

⁵⁹ Dynamic Dox, 'Growth Of ATA Carnet Use' (Carnet News, 11 January 2018) <https://www.ata-carnet.uk/news/growing-use/> accessed 1 June 2020



64. Brazil began using the ATA Carnet for the 2016 Olympics, and its popularity with businesses quadrupled in 2018.⁶⁰

65. Another contributor to the increasing number of the ATA Carnets is that countries have expanded the categories of goods covered by the ATA Carnet over the last decade.⁶¹ China expanded the use of the ATA Carnet to include Commercial Samples and Professional Equipment in 2018.⁶² In 2020 China also expanded the use of the ATA Carnet to include goods for sports purposes. This expansion has made the ATA Carnet attractive for businesses thus, could explain the increased the use of the ATA Carnet.⁶³

66. Public awareness of the ATA Carnet has also contributed to the increased use of the ATA Carnet. In India, the Federation of Indian Commerce and Industry launched a drive to increase export turnover by creating awareness of the ATA Carnet.⁶⁴ This caused exports to be aware of the ATA Carnet and how it is used, thus the usage of the ATA Carnet increased in India.

5.4 Experiences with the ATA Carnet system

67. The ATA Carnet has proven to be an extremely useful tool to save professionals and experts in various professions large amounts of money where they aimed to temporarily import and export the tools associated with their trade.

⁶⁰ *ibid*

⁶¹ *ibid*

⁶² Boomerang Carnets, 'China Announces Big Increase in ATA Carnet Acceptance ' (Blog, 18 January 2018) <https://www.atacarnet.com/China-Announces-Big-Increase-in-ATA-Carnet-Acceptance> accessed 1 June 2020

⁶³ Belgium International Chamber of Commerce, 'China increases ATA Carnet acceptance to sporting goods' (Latest, 15 November 2018) <https://www.iccwbo.be/17681-2/> accessed 1 June 2020

⁶⁴ The Hindu, 'FICCI launches special driveto increase export turnover' (*News*, 28 February 2017) <https://www.thehindu.com/news/cities/Visakhapatnam/ficci-launches-special-driveto-increase-export-turnover/article17381216.ece> accessed 1 June 2020



68. During the 2008 Summer Olympics in Beijing, China saw one of the largest uses of the ATA Carnet system to date. The decision to utilize the temporary passport not only guaranteed the safety and efficiency of Olympic Materials clearance, but also solved the Olympic committee's financial concerns. In addition, it provided practical information for the expansion of ATA Carnet scope in China. Commenting on the value of the ATA Carnet system, Zhang Jianwei Executive Director of China National Foreign Trade Transportation (Group) Corporation President of Sinotrans Limited stated "Taking advantages of the Olympic Games, we hope to enlarge the application of ATA Carnet and expedite the upgrade of E-port system. We are expecting the comprehensive use and upgrade of the ATA Carnet System all over China."⁶⁵

*Case study 1: 2008 Summer Olympics in Beijing*⁶⁶

2008 Summer Olympics in Beijing

428 Carnets entered into Beijing with a total value of USD\$340 million

The use of ATA Carnets for Olympic equipment was deemed as the greatest importation facilitation to the 2008 Beijing Olympic Games. It ensured the efficiency of customs clearance and received considerable acclaim from the international community. For example, 428 Carnets entered into Beijing with a total value of 340 million U.S. Dollars, which accounted for 2.41% of the total volume and 57.63% of the total value of Olympic materials entered into Beijing.

⁶⁵China Council for the Promotion of International Trade/ China Chamber of International Commerce, 'Commemorative Album for the 10th Anniversary of the implementation of ATA Carnet System in China' [2018] Historical Development of Carnet System in China

⁶⁶ *ibid*



69. Although the ATA Carnet regime was considered a priority for the 2014 Soccer World Cup, Brazil only officially implemented the ATA Carnet System late June of 2016, merely weeks prior to the Rio de Janeiro 2016 Olympics.⁶⁷

*Case study 2: Rio de Janeiro 2016 Olympics*⁶⁸

Rio de Janeiro 2016 Olympics

The ATA Carnet was used for Press, Broadcasters, Sponsors and Int'l Federations.

Rio 2016 provided for a temporary admission (TA) procedure that covers "accredited/enabled" client groups such as Press, Broadcasters, Sponsors and International Federations. Earlier in August 2015, a five day training session by the Portuguese national guaranteeing association with RFB and the Brazilian national guaranteeing association (CNI) was conducted. Cindy Duncan Chair of the ICC WCF World ATA Carnet Council (WATAC) said:

"This is a major achievement for Brazil that will allow the country to reposition itself as a stronger player in the global economic arena and reduce trade barriers. It comes just in time for the 2016 Summer Olympics and shows the country's commitment to promoting economic growth and openness."

70. In the same way that Beijing and Rio utilized the ATA Carnet for the Olympic Games, CARICOM's sporting industry can significantly benefit from a system that allows athletes to travel freely with their sporting equipment. For instance, when the West Indies Cricket team is travelling for a tournament, their athletes and coaching staff would bring the team's uniforms, helmets, thigh pads, gloves, bats, balls, and exercise equipment. The ATA Carnet may then be used to cover the costs associated with these additional

⁶⁷ ICC, 'Brazil operates ATA Carnet system ahead of Olympics' (*International Chamber of Commerce*, 7 July 2016) <https://iccwbo.org/media-wall/news-speeches/brazil-operates-ata-Carnet-system-ahead-of-olympics/> accessed 24 April 2020

⁶⁸ *ibid*



goods that are required for the sport.⁶⁹ Typically, cricketers would enter and exit a country in under a year, therefore the fixed time period would be of little to no concern. These benefits will also be accrued in other sporting disciplines such as football, rugby, volleyball, netball, track and field, swimming, lawn tennis and table tennis which are extremely popular across the CARICOM region.

71. In the UK, the Chamber International has assisted thousands of clients in eliminating duty and taxes through the ATA Carnet system. One such example of this is Saville Digital Event Services which was awarded a major contract to supply their specialist recording service, E-Stream and bespoke delegate collaboration package Saville IDEA for a pharmaceutical conference in the US.⁷⁰ As a hotspot for tourism, having an ATA Carnet system in place would no longer deter tourism conference organizers from hosting large events in the CARICOM region as they would be able to bring their set up equipment with ease. This would serve tremendous economic benefits as large gatherings such as conferences boost the hotel and restaurant industries.

⁶⁹ For the year ended September 2016, the West Indies Cricket Board earned a gross revenue of USD\$ 36,522,613 per KPMG Eastern Caribbean, Independent Auditor's Report of West Indies Cricket Board Inc (September 30, 2016)

⁷⁰ Chamber International, 'Audio visual experts save cash with an ATA Carnet' (*Chamber International*) <https://www.chamber-international.com/exporting-chamber-international/documentation-for-export-and-import/what-is-an-ata-Carnet/case-study-saville-audio-visual/> accessed 25 February 2020



Case Study 3: Saville Digital Event Services, a UK based company⁷¹

Saville Digital Event Services

Saved £13,000 in duty and taxes

In the UK, the Chamber International assisted a client in retaining over £13,000 in duty and taxes through the ATA Carnet system. Saville Digital Event Services was awarded a major contract to supply their specialist recording service, E-Stream and bespoke delegate collaboration package Saville IDEA for a pharmaceutical conference in the US. Using the temporary passport, the company was able to transport the hardware required to Los Angeles and successfully managed the recording and delegate engagement of the event. Commenting on the usefulness of the system, Jim Young, head of digital events at the company stated:

“Using a Carnet enabled us to avoid lodging an import bond in the US and the hassle of reclaiming it when the goods were repatriated.”

72. Additionally, in the realm of theatre, the ATA Carnet was successfully used by Opera North⁷², a UK based Opera Company to save over £17,000 in duty fees by using two ATA Carnets. This experience is equivalent to carnival costume designers and steel pan players who travel throughout the globe to display new sections at band launches and play steel pan music.⁷³ Carnival costumes encompass large feathers, fabric, gems, boning, and other delicate objects. Consequently, costumes are very fragile and placed in large casings to protect the designers work. On the other hand, a large steel pan side can encompass over 100 pans in addition to drum kits and other instruments used within the band. Costume designers and pan sides

⁷¹ *ibid*

⁷² Chamber International, 'Opera company sings Chamber International praises' (*Chamber International*) <https://www.chamber-international.com/exporting-chamber-international/documentation-for-export-and-import/what-is-an-ata-carnet/case-study-opera-north/> accessed 25 February 2020

⁷³ The cultural tourism industry, particularly the annual Carnival festivals are pivotal economic stimulants estimated to value over \$30 million in Trinidad & Tobago per Marie-Claude Darné, and Keith Nurse. *Caribbean Economies and Global Restructuring* (Ian Randle Publishers 2002) 197



can benefit from the use of the ATA Carnet to reduce the costs associated with shipping costumes and equipment to be used at cultural events.

*Case Study 4: Opera North, a UK-based theatre group*⁷⁴

Opera North

Saved over £17,000 in duty fees by using two ATA Carnets.

Additionally, award-winning Opera North, based in Leeds, is a regular user of the ATA Carnet system. The company has attested to saving over £17,000 in duty fees by using two ATA Carnets: one for the set and the other for props. The temporary import and export document has permitted their production equipment to be transported through Boston in the US, Australia, Bordeaux Chemnitz and Bonn without cost.

73. The United Arab Emirates has also lauded over the benefits of using the ATA Carnet. At a workshop as part of its efforts to help foster regional business ties, Dubai Chamber of Commerce and Industry shared its experience and expertise in the implementation of the ATA Carnet system.⁷⁵

⁷⁴ *ibid*

⁷⁵ Dubai Chamber, 'Dubai Chamber Shares its ATA Carnet Experience with Saudi Chambers' (*Dubai Chamber*, 30 December 2014) https://www.dubaichamber.com/whats-happening/chamber_news/dubai-chamber-shares-its-ata-carnet-experience-with-saudi-chambers accessed 24 April 2020



Case Study 5: use of the ATA Carnet in the United Arab Emirates⁷⁶

United Arab Emirates

The system simplifies border crossings with the added advantage that Carnet holders are not required to post securities with the authorities.

Mr. Atiq Juma Nasib, Senior Vice-President of the Commercial Services Sector in the Dubai Chamber explained at length the benefits of the ATA Carnet system as well as the mechanism the UAE adopted in the introduction of the system in the country, which was the first in the Gulf region to launch and implement since 2011. He stressed that salesmen, exhibitors, and other business travelers may make advance Customs arrangements at predetermined costs, visit several countries, use their ATA Carnet for multiple trips during its one-year validity, and return to their home country without problems or delays.

74. As was noted in the United Arab Emirates, while the ATA Carnet is essentially used by private individuals, governments have a key role in implementing the system so that it can benefit those who need it most. These experiences with the ATA Carnet system evidence the fact that there is potential to use the system to advance commerce and possibly trade in other markets. With a functional regime in place, CARICOM States appear more attractive to the business community as prime destinations for trade fairs, exhibitions, and cultural and sports events while also boosting two-way trade between the region and the world.

75. Trinidad & Tobago is the only CARICOM State that has made significant strides toward ratifying the ATA Convention. Trinidad & Tobago enacted the Customs ATA Carnet System Act, 1986; though there is no concrete data indicating that ATA Carnets were used under this legislation. Notably, an updated 2001 ATA Carnet Bill was introduced to Parliament with the first reading of the Bill occurring, however it

⁷⁶ *ibid*



subsequently lapsed due to unknown reasons⁷⁷. The Customs ATA Carnet System Act of Trinidad & Tobago, 2001⁷⁸ authorized the Trinidad & Tobago Chamber of Industry and Commerce or such other body as may be designated by the Minister responsible for Finance to issue the ATA Carnet. In addition to commercial samples, goods for display or use at exhibitions, fairs, meetings or similar events and professional equipment, Trinidad & Tobago specifically promotes the use of the ATA Carnet for the import of film production equipment which typically attract extortionate customs duty and VAT to be paid. Although the Bill lapsed in Parliament, it serves as a useful guide for other CARICOM States wishing to implement similar legislation.

76. For the period 2005 to 2016, the only South American country to accept ATA Carnets was Chile. However, after years of negotiation and months of awareness building on the scope of the ATA Carnet usage with Brazilian Customs, Brazil officially signed and ratified the convention making it not just enforceable at the international level but at the local level. While Brazil began accepting ATA Carnets in 2016, a restriction was in place on hand-carried goods which was later amended in 2017 to include “goods carried by the traveler.”⁷⁹ This amendment removed the final technical hurdle to using Carnets to Brazil and expanded the system of ATA Carnets for South American states.

5.5 Summary

77. The ATA Convention significantly reduces the customs duties and taxes associated with the import, export, and transit of goods. Additionally, when in place, it purports to simplify otherwise complex and

⁷⁷ Parliament of the Republic of Trinidad & Tobago, '1st Session of the 6th Parliament The Customs ATA (Admission Temporaire/Temporary Admission) Carnet System Act, 2001' (*TT Parliament*, 2001) <http://www.ttparliament.org/publications.php?mid=28&id=296> accessed 21 May 2020. See Bill [ATA Carnet Bill T&T.pdf](#)

⁷⁸ See Appendix

⁷⁹ USCIB, 'US-Issued ATA Carnets Now Allowed Into Brazil' (*United States Council for International Business*, 2017) <https://www.uscib.org/us-issued-ata-carnet-now-allowed-into-brazil/> accessed 24 April 2020



challenging customs procedures. Brazil frequently uses the Regime Especial de Admissão Temporária which is similar to the ATA Carnet in its modus operandi however it is significantly more complex. Therefore, the ATA Carnet is the better option considering that it is being used more frequently across the globe. ATA Carnets have been successfully used at the Olympics and by numerous businesses to avoid exorbitant customs duties and taxes. Trinidad & Tobago is the only CARICOM country to have considered engaging with the ATA Carnet. However, in the context of Brazil, to take advantage of such a system, CARICOM States must explore the sectors of goods that Brazil is already importing which are being exported by member states.



6. The ATA Carnet with Brazil: Trade in Goods

- *Section 6.1* considers the usefulness of the ATA Carnet system with Brazil for the purpose of transporting goods to encourage opening new markets, maintaining and increasing existing market share, and obtaining market intelligence.
- *Section 6.2* analyzes the goods that are exported from CARICOM States that would correspond to the ATA Carnet system in light of Brazil's major imports.

6.1 ATA Carnet and Goods

78. Though the ATA Carnet system only temporarily permits goods to be imported and exported, it functions as a useful tool for the marketing of cultural and commercial goods. This type of exposure offers an opportunity to gain leverage market access not only in Brazil, but potentially all of Latin America. In Brazil, Caribbean goods can be the subject of trade shows which could be a major boost for a specific industry or product. Adopting this system will help attract trade fairs, exhibitions and cultural events to the region and Brazil. Joining the ATA Convention meets these objectives because this convention can have positive effects on businesses, trade and on the status of the region not only in Brazil but Latin America.

79. The system would help develop local customs regulations and encourage more industrial, agricultural, and national exhibitions, which will in turn positively affect tourism. The subjects of these exhibits will be inclined to not only purchase Caribbean products but visit the Caribbean. The implementation of the ATA Carnet can make Brazil and the Caribbean the first choice for exhibitors because it gives them the operational efficiency and the tools to develop their businesses.

80. Overseas promotion of exports is often designed to open new markets, maintain, and increase existing market share, and obtain market intelligence. Such efforts must meet strategic marketing goals and achieve



the greatest impact at the lowest possible cost. The ATA Carnet allows this as it reduces expenses especially for small CARICOM exporters, and also enables such exporters to reach a larger audience. Brazil is a country know for hosting trade shows organized by certain industries, trade associations or chamber of commerce. These trade shows would allow access to Brazil’s market which would enable CARICOM exporters to reach a broad market. Global competition is motivating firms to seek innovative ways of entering new markets. The ATA Carnet provides a competitive advantage in global markets by helping to identify market opportunities.

6.2 ATA Carnet and CARICOM Goods

81. CARICOM States produce a wide variety of goods that can benefit from the ATA Carnet. The following provides a list of some of these dynamic exports.⁸⁰

Table 5: CARCIOM exports 2018-2019 in USD

Product	2018 (USD)	2019 (USD)
Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals	3,355,120	1,947,001
Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad	1,676,023	1,760,730
Articles of apparel and clothing accessories, knitted or crocheted	862,717	965,687

⁸⁰International Trade Centre, 'Trade statistics for international business development Monthly, quarterly and yearly trade data Import & export values, volumes, growth rates, market shares, etc' (Trade Map, 2019) https://www.trademap.org/Product_SelProduct_TS.aspx?nvpm=1%7c%7c%7c%7c%7cTOTAL%7c%7c%7c2%7c1%7c1%7c2%7c2%7c1%7c1%7c1%7c1 accessed 15 May 2020



Ships, boats, and floating structures	87,945	734,095
Iron and steel	697,542	698,974
Ores, slag, and ash	426,919	232,199
Wood and articles of wood; wood charcoal	122,270	182,592
Essential oils and resinoids; perfumery, cosmetic or toilet preparations	104,453	58,168

Brazil's major imports that can be imported from CARICOM

Table 6: Brazil's imports in 2019 in USD

Product	2019 (USD)
Ships, boats, and floating structures	4,592,530
Iron and steel	2,160,841
Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals	2,056,587
Ores, slag, and ash	1,202,268
Articles of apparel and clothing accessories, knitted or crocheted	859,983
Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad	759,337
Essential oils and resinoids; perfumery, cosmetic or toilet preparations	660,117



82. CARICOM States have exported little to Brazil. As noted earlier, reasons such as distance (historical, cultural, economic, and social distance), linguistic differences, levels of development, differences in physical and population size are all contributors to this present reality. The ultimate result is that companies in Brazil are unaware of CARICOM goods. The following examples accentuate the negligible exports flowing from CARICOM to Brazil.

83. A major export from CARICOM States is inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals valued at \$1,947,001 USD in 2019. These includes: ammonia, anhydrous or in aqueous solution, artificial corundum, whether or not chemically defined; aluminum oxide; aluminum hydroxide, inorganic acids and inorganic oxygen compounds of non-metals (excluding hydrogen chloride "hydrochloric", hydrogen, rare gases and other non-metals, cyanides, cyanide oxides and complex cyanides). In 2019 Brazil imported a value \$2,056,587 USD where \$744,781 USD from the United States of America, \$272,186 USD from China, and only \$58,895 USD from CARICOM.⁸¹

84. Additionally, ores, slag and ash are dynamic exports, valuing at \$232,199 USD in 2019. These include aluminum ores and concentrates, slag, ash and residues containing metals, arsenic or their compounds, slag and ash, incl. seaweed ash "kelp"; ash and residues from the incineration of municipal, Ores and concentrates (excluding iron, manganese, copper, nickel, cobalt, aluminum, lead). In 2019 Brazil imported a value of \$1,202,268 USD, where \$538,202USD were from Peru, \$ 503,099USD from Chile and only \$ 282 USD from CARICOM.⁸²

⁸¹ International Trade Centre, 'Trade statistics for international business development Monthly, quarterly and yearly trade data Import & export values, volumes, growth rates, market shares, etc' (Trade Map, 2019) https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c076%7c%7c%7c%7c28%7c%7c%7c2%7c1%7c1%7c1%7c2%7c1%7c2%7c1%7c1 accessed 15 May 2020

⁸² International Trade Centre, 'Trade statistics for international business development Monthly, quarterly and yearly trade data Import & export values, volumes, growth rates, market shares, etc' (Trade Map, 2019) https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c076%7c%7c%7c37%7c26%7c%7c%7c2%7c1%7c1%7c1%7c2%7c1%7c2%7c1%7c1 accessed 15 May 2020



85. One of CARICOM's major export to Brazil is ship, boats, and floating structures. These include; Rafts, tanks, cofferdams, landing stages, buoys, beacons and other floating structures, yachts and other vessels for pleasure or sports; rowing boats and canoes. The value in 2019 was \$1,947,001 USD in 2019. In 2019 Brazil imported a value of \$4,592,520 USD, where \$2,115,689 USD was from China and none was imported from CARICOM.⁸³

86. Another major export of CARICOM States is iron and steel valued at \$698,974 USD in 2019. This includes: ferrous products obtained by direct reduction of iron ore and other spongy ferrous products, ferrous waste and scrap; remelting scrap ingots of iron or steel (excluding slag, scale and semi-finished products of iron or non-alloy steel and bars and rods, of iron or non-alloy steel, not further worked than forged, hot-rolled, hot-drawn. In 2019 Brazil imported a value of \$2,160,841 USD, where \$723,557 USD was imported from China and none from CARICOM.⁸⁴

87. Essential oils and resinoids; perfumery, cosmetic or toilet preparations is another dynamic export, valuing at \$58,168 USD in 2019. This includes essential oils, whether or not terpenes, including concretes and absolutes; resinoids; extracted, mixtures of odoriferous substances and mixtures, including alcoholic solutions, based on one, perfumes and toilet waters (excluding aftershave lotions, personal deodorants, and hair lotions). In 2019 Brazil imported a value of \$660,117 USD, where \$ 131,826 USD were from the United States of America, \$ 120,877 USD from the France, and only \$959 USD from CARICOM.⁸⁵

⁸³ International Trade Centre, 'Trade statistics for international business development Monthly, quarterly and yearly trade data Import & export values, volumes, growth rates, market shares, etc' (Trade Map, 2019) https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c076%7c%7c%7c%7c89%7c%7c%7c2%7c1%7c1%7c1%7c2%7c1%7c2%7c1%7c1 accessed 15 May 2020

⁸⁴ International Trade Centre, 'Trade statistics for international business development Monthly, quarterly and yearly trade data Import & export values, volumes, growth rates, market shares, etc' (Trade Map, 2019) https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c076%7c%7c%7c%7c72%7c%7c%7c2%7c1%7c1%7c1%7c2%7c1%7c2%7c1%7c1 accessed 15 May 2020

⁸⁵ International Trade Centre, 'Trade statistics for international business development Monthly, quarterly and yearly trade data Import & export values, volumes, growth rates, market shares, etc' (Trade Map, 2019) https://www.trademap.org/Country_SelProductCountry_TS.aspx?nvpm=1%7c076%7c%7c%7c%7c33%7c%7c%7c2%7c1%7c1%7c1%7c2%7c1%7c2%7c1%7c1 accessed 15 May 2020



88. It is submitted that the ATA Carnet would be the tool to promote these exports in Brazil to Brazilian companies. CARICOM produces most of Brazil's dynamic exports. CARICOM States are much closer than China. Brazil can import goods classified under ships, boats, and floating structures from CARICOM States, they can import essential oils and perfumery from the CARICOM States. The ATA Carnet would allow Brazilian companies to be exposed to these CARICOM products. The small size of CARICOM States means they cannot capitalize on economies of scale. Although they are open to trade, their remoteness from international markets increases the cost of trading goods. Brazil and CARICOM States are not too remote. Brazil and CARICOM States are much closer than Brazil's major importers. Thus, there is no reason why Brazil and CARICOM States should not engage in more trading. It must be remembered the ATA Carnet is limited in scope and use and can only be used to admit goods into Brazil temporarily. The ATA Carnet could allow CARICOM goods access to Brazil, the goods will be exposed to the Brazilian markets, Brazilian companies will be aware of good within their regions that being CARICOM goods which can arrive much sooner that importing from China, Bangladesh and Russia.

89. The introduction of the ATA Carnet among CARICOM States will also facilitate CARICOM's integration with Brazil. The ATA Carnet saves time, effort, and money. Carnets are used for unlimited exits from and entries. Valid for one year the ATA Carnet will be accepted eliminating VAT duties, and the posting of any security normally required at the time of importation. Simplifying customs procedures, the ATA Carnet will allow a temporary exporter to use a single document for all customs transactions, make arrangements in advance without obtaining an expert permit.

6.3 Summary

90. The ATA Carnet system is primarily used for trade in goods. In the context of CARICOM States and Brazil, it may be used to encourage opening new markets, maintaining, and increasing existing market share, and obtaining market intelligence. Some of the major CARICOM exports that are imported by Brazil



include ships boats and floating structures, iron and steel, and inorganic chemicals, compounds, and rare-earth metals. Consequently, CARICOM exporters can use the ATA Carnet to target Brazilian trade fairs and eventually begin to export these goods to Brazil. Consideration must also be given to the manner in which the ATA Carnet can be used to promote investment in the Caribbean.



7. The ATA Carnet with Brazil: Investment

- *Section 7.1 considers the use of the ATA Carnet to promote investment in critical areas such as food security, alternative energy production, and improved healthcare infrastructure and supply which are issues shared by CARICOM States and Brazil.*

7.1 ATA Carnet and Investment

91. The ATA Carnet would go a long way in promoting CARICOM States as an investment destination. Facilitating the entry and movement of goods between countries and facilitating customs procedures is an important and essential step for supporting export and import processes and traders in general. It will help to make CARICOM States attractive to foreign investors and organizers of global sports events and exhibitions. It will also send a strong message to the business community in Brazil.

92. The ATA Carnet is an important trading tool enabling the business to develop its export capabilities. It must be emphasized that, the ATA Carnet System is an international customs document that allows the temporary import of goods for a period of one year without any fees or customs taxes. The temporary entry card includes all goods, provided that they are re-exported and imported during the period approved by the relevant Customs Authorities.

93. By becoming signatories to the ATA Carnet Convention CARICOM States can also attract a wide range of global exhibitions to its venues. CARICOM States can attract businesses from Latin America and the wider world. By having these events, businesses can establish commercial presence within CARICOM States, which will ultimately boost trade.



94. CARICOM States and Brazil have several common issues, such as food security,⁸⁶ alternative energy production,⁸⁷ and improved healthcare infrastructure and supply.⁸⁸ There is an opportunity to resolve these issues collaboratively. The ATA Carnet can be used to move prototypes across the borders without cost to test new technology. They can also use the prototypes to share information and ideas which will eventually lead to greater investments.

95. The key criteria for companies would be a stable political setting, healthy economic growth prospects, an established and growing insurance market, a business-friendly regulatory regime, and a sound environment of corporate governance. To better take advantage of these opportunities CARICOM States must revisit investment legislation to facilitate capital flows between the parties. CARICOM States must be willing to remove travel formalities and facilitate movement of persons between the parties.⁸⁹ Business professionals would need to be granted economic citizenship and long-term visas as part of labour permit requirements. There is also a need for improve transport connection between CARICOM States and Brazil in order to promote investment and even trade.

7.2 Summary

96. The investment opportunities through the ATA Carnet system are strong. Possible investors would be able to use the temporary passport for goods to make initial proposals that would often require physical

⁸⁶ Food and Agriculture Organization of the United Nations , 'Support for National and Subregional Strategies for Food and Nutritional Security and Overcoming Poverty in Countries of Latin America and the Caribbean' (*Projects*, 2019) <http://www.fao.org/in-action/program-brazil-fao/projects/food-security/en/> accessed 06 June 2020

⁸⁷ Kenneth Hall and Myrtle Sang, *Caribbean Community: The Struggle for Survival* (Trafford Publishing 2012) 275

⁸⁸ CARICOM, 'CARICOM FACED SERIOUS HELATH CHALLENGES, BUT HAD IMPORTANT SUCCESSESS IN 2016, SAYS PAHO' (News, 28 December 2016) <https://caricom.org/caribbean-faced-serious-health-challenges-but-had-important-successes-in-2016-says-paho/> accessed 08 June 2020

⁸⁹The Revised Treaty of Chaguaramas provides for free movement of people among CARICOM States. See Caribbean Community Secretariat, 'FREE MOVEMENT OF PEOPLE' (*CSME UNIT*) <https://www.csmeonline.org/en/about-joomla/item/111-free-movement-of-people/> accessed 8 June 2020



models and in some cases, machinery for inspection. While this benefit can be accrued by both parties, CARICOM's current investment framework has significant room for improvement considering the unstable and outdate legal frameworks and significant costs associated with traveling to and within the region. Another realm through which the ATA Carnet may be used to boost CARICOM-Brazil trade relations is through trade in cultural, entertainment and educational services.



8. ATA Carnet with Brazil: Trade in Services

- *Section 8.1* provides a definition of Trade in Services under the GATS 1994.
- *Section 8.2* considers exploring trading in services as a viable option. More specifically, the cultural and entertainment industry, as well as educational services, can help to forge such a relationship.
- *Section 8.3* highlights the cultural linkages between CARICOM States and Brazil, specifically as it relates to the shared African heritage and carnival as sectors that can be explored through the ATA Carnet.
- *Section 8.4* considers educational services in the context of language exchange as well as transporting the equipment used in teaching.

8.1 Trade in Services Defined

97. It will be helpful at this juncture to establish a definition for trade in services. This will provide a framework for the following analytical discussion.

98. The GATS defines trade in services as the supply of any service within one of four modes of supply⁹⁰:

- (i) the “cross-border” mode, where there is a supply made from a territory of one Member (Member of WTO) into the territory of another Member;
- (ii) the “consumption abroad” mode, where there is a supply in the territory of a Member to a service consumer from another Member;
- (iii) the “commercial presence” mode, defined as the supply by a service supplier of one Member, through commercial presence in the territory of another Member; and

⁹⁰ Article I:2



- (iv) the “presence of a natural person” mode, represented by the supply of service by a service supplier of a Member, through the presence of its natural persons in the territory of the other Member.

99. “Services” in this context include any service in any sector except those provided in the exercise of governmental authority.⁹¹ This qualification alludes to services supplied outside the commercial context⁹², and typically include health care and basic education. However, the exception will not apply if these services are privatized.

100. Having established the scope of trade in services, this section continues with an exploration of various ways in which the ATA Carnet can promote CARICOM exports to Brazil.

8.2 Trade in cultural entertainment services

101. The Caribbean is known for its rich diversity and creativity. The growth of the cultural and creative industries in the Caribbean⁹³ merits a discussion on how best and how far these services can be exported. In particular, keen attention should be devoted to the music (and artistic) performance and film production aspect of the industry.

102. In addition to indigenous music genres such as calypso, reggae, chutney, soca and dancehall, the steel pan distinguishes the region from the rest of the world. The steel pan, the Caribbean’s instrument, continues to accumulate global exposure. For example, steel bands across the region have performed in the most famous concert halls, such as the Royal Albert Hall in London, the United Nations building, and the

⁹¹ Article I:3(b) of the GATS

⁹² Article I:3(c) of the GATS

⁹³ [x] some references to the amount the industries contribute to the economy would be useful



Kennedy Center in Washington, D.C.⁹⁴ Similarly, this indigenous instrument can be exposed to Brazil. The ATA Carnet will be useful in easing the carriage of the steel pan. The international passport will also be valuable for other musicians, artistes, disc-jockeys, and artists who wish to transport equipment for performances in Brazil. Equipment may include instruments, electronic equipment, costumes for live performances, and paintings for exhibitions. This mode of service supply is known as the “presence of a natural person” mode.

103. Moreover, the film industry has also developed tremendously. In Jamaica, the industry generated a contribution of over J\$1.2 billion (US\$8,193,978.72) for the 2017/2018 fiscal year.⁹⁵ In 2017, the Trinidad and Tobago Film Festival as well as Anime Caribe (held in Trinidad) were named in the top film festivals in the Caribbean.⁹⁶ There has also been impressive growth in Barbados. For example, the Director Composer Creative Lab, which was a series of training workshops in 2019 attracted musicians and filmmakers to discuss film scoring.⁹⁷

104. There are two ways CARICOM States can use the ATA Carnet to promote exports in the film production arena. Firstly, and more commonly, the ATA Carnet can be used to encourage film production in the Caribbean. By being home to a film production, countries will gain international appeal. This is known as film tourism; that is, the business where tourists are attracted to a destination based on its appearance in a film.⁹⁸ Film tourism is a branch of business tourism. Film production crews will also consume the tourism product while completing their project. Caribbean destinations such as St Vincent

⁹⁴ Caribbean-steal-drums.com, 'History of steel drums (steel pans)-An Inspiring Story!!' (History of Steel pan, n/a) <https://www.caribbean-steel-drums.com/steel-drums.html> accessed 20 March 2020

⁹⁵ Loop Caribbean, 'Jamaica and T&T lead the pack as Caribbean film industry grows' (Caribbean News, 20 September 2018) <http://www.loopnewsbarbados.com/content/jamaica-and-tt-lead-pack-caribbean-film-industry-grows-8> accessed 20 March 2020

⁹⁶ Culture trip, 'Top Film Festivals in the Caribbean' (*Caribbean*, 12 December 2017) <https://theculturetrip.com/caribbean/articles/top-film-festivals-in-the-caribbean/> accessed 20 March 2020

⁹⁷ Carla L Foster, 'IMPRESSIVE GROWTH IN BARBADOS' FILM INDUSTRY' (The Barbados Advocate, 3 March 2019) <https://www.barbadosadvocate.com/news/impressive-growth-barbados%E2%80%99-film-industry> accessed 20 March 2020

⁹⁸ Tanskanen, Tanja, “Film Tourism: Study on How Films Can Be Used to Promote Tourism” Vuosi 2012 Sivumäärä 61



and the Grenadines, St Lucia, and Dominica were aggressively promoted internationally after hosting scenes from “Pirates of the Caribbean”. The Trinidad & Tobago government also see the ATA Carnet as a way of boosting film tourism.⁹⁹ However, in Barbados, the Cultural Industries Development Act 2013-15 contains many tax incentives for cultural practitioners.¹⁰⁰ More specifically, Schedule 2 creates an extensive list of items, all of which are covered by the ATA Carnet, that is exempt from import duties.¹⁰¹ Hence, the ATA Carnet is not necessary to boost film tourism in Barbados.

105. Notwithstanding, the ATA Carnet can be used to facilitate co-production. Co-production involved companies from two or more countries that finance and produce films. It is at this point, when the film is distributed and exhibited, that exporting begins. Data reveals that co-productions are released, on average, in twice as many markets as national productions; and co-productions generated revenues that are, on average, 2.78 times higher than national productions.¹⁰²

106. International co-production is a practice that started in the mid-20th century among companies from countries with major historical, cultural, and/or linguistic ties. While it is true that Brazil and CARICOM States are not connected by potent historical or cultural ties, it should be highlighted that there is a large black community in Brazil – the nomenclature used to identify this sector of the population is Afro-Brazilians. In fact, there are more than 1 million Afro-Brazilians in the South American country.¹⁰³ The size of the community is compounded by an extraordinary sense of consciousness; they are particularly fond of their African roots. This information, it is submitted, demonstrates that there is some linkage between the Caribbean and Afro-Brazilians; that is, historical roots planted in Africa. Hence, co-produced films between Barbadian (and CARICOM) and Brazilian producers have access to a large film market. This potential market comprises of viewers across the entire Caribbean and Brazil. The ATA Carnet is

⁹⁹ Republic bank, 'Trade Facilitation Summit Brings Regional And African Businesses Together' (News, 29 September 2018) <https://www.republictt.com/news/trade-facilitation-summit-brings-regional-and-african-businesses-together> accessed 20 March 2020

¹⁰⁰ These include duty-free concessions and income tax concessions.

¹⁰¹ Cultural Industries Development Act 2013-15. See [Cultural Industries Development Act.pdf](#)

¹⁰² *Ibid*

¹⁰³ Freelon, Kiratiana, “Black Money” March 8, 2018



typically restricted to the movement of equipment engaged for the creation of films such as cameras and costumes; however, the finish products, the co-produced films, can be exported to Brazil where there is a dynamic community of Afro-Brazilians. The “cross-border” mode of supply is applicable.

107. Interestingly, the language barrier may prove to be an issue for the viewership. This presents job opportunities for film translators. The exportation of this service could fall under the “cross-border” mode as well as “consumption abroad” and the “presence of natural persons”. Equally interesting is the prospect of co-production stimulating film tourism across both regions.

108. The cultural entertainment industry continues to develop considerably and creates an abundance of opportunities for individuals. As of August 2017, the estimated amount of people employed in this industry in Barbados was between 2,100 and 3,000.¹⁰⁴ Employers expected an expansion by at least 20%. Through the creative industry, the region will be able to build its brand globally by transplanting its culture and values, thereby influencing international opinion.¹⁰⁵ The ATA Carnet can play an important role as it provides for the trade facilitation of equipment and goods associated with the cultural industry.

8.3 Trade in educational services

109. Export in educational services was typically understood to mean foreign students enrolling in local tertiary level institutions. Put differently, educational exports involves a university selling degree programs to foreign students. Hence, universities in this business seek to attract foreign students and/or establish offshore campuses. However, Finland has radicalized this conventional definition. The Finns believe that exports in education is a business where consumers pay for their receipt of educational services which may

¹⁰⁴ AC Babb, “Creative truth to power”

¹⁰⁵ Marie-Claude Derné, and Keith Nurse. Caribbean Economies and Global Restructuring (Ian Randle Publishers 2002)



include training, consulting, know-how deals, technological solutions, or a combination of these.¹⁰⁶ Accordingly, educational exports are not confined to selling degrees. It is important to note that consumers of these services can be foreign countries/governments, private and public companies, private persons, international organizations, and tertiary level institutions.¹⁰⁷ It is submitted that this definition is more apt for the present discussion.

110. The ATA Carnet can be used to transport in a hassle-free manner any equipment that is requisite for the delivery of the services listed above. For example, the language barrier between Brazil and Barbados can be addressed by offering English language lessons in Brazil (and Portuguese in Barbados/CARICOM).

111. Educational exports can also take place within the music industry, for example, by participating in music clinics. A music clinic is a training workshop where a guest music expert professional introduces an audience to various techniques and styles.

112. As stated earlier, the steel pan is the Caribbean's instrument. Additionally, there are autochthonous genres of music such calypso and soca. Hence, there are opportunities for musicians from CARICOM States to participate in clinics in Brazil. Subject matters of the clinics could include the steel pan (its anatomy, how it is played, among other things), and different drum and dance styles. Moreover, these clinics are ideal preludes to live performances where musicians can further showcase their talents. The ATA Carnet will ostensibly be important in facilitating the hassle-free importation of instruments.

113. A similar event transpired in Barbados almost nine years ago. Brazilian samba group, Sociedade Rosas de Ouro, visited Barbados to promote select aspects of Brazilian culture. In particular, the group made appearances at the Crane Hotel, at summer camps, and conducted workshops with the National

¹⁰⁶ Walid El Cheikh, "Productising Finnish Education for Export: The Barriers and Enablers of Internationalisation. A multiple case study: Fifteen members of future learning Finland" 2015

¹⁰⁷Journal of Finnish Universities of Applied Sciences , 'Education export – what does it mean?' (Journal Reports, 11 October 2014) <https://uasjournal.fi/tutkimus-innovaatiot/education-export-what-does-it-mean/> accessed 20 March 2020



Cultural Foundation (NCF) where they demonstrated how to make their elaborate costumes and how to play their instruments, among other things.¹⁰⁸ This was a progressive move in strengthening the cultural and social links of both nations. Barbadian cultural practitioners can capitalize on the use of the ATA Carnet to embark on similar educational expeditions.

114. The ATA Carnet also has a place in promoting technological innovations. An important example is modernized agriculture and food security. One of the primary goals of the Inter-American Development Bank is to increase agricultural output using modernize technology. In light of this, the bank has supported several agricultural projects across Latin America and the Caribbean.¹⁰⁹ The Caribbean Development Bank, of which Brazil is a non-borrowing member, also has comparable policies. In effect, there is a unified campaign across the hemisphere to increase food security (and other areas such as energy production) via sustained technological methods. Knowledge sharing and technology demonstrations are vital to achieving this end, and the ATA Carnet is useful to import equipment in these instances. Additionally, manufacturers of medical devices who wish to share knowledge thereof at exhibitions and similar events, can benefit from the ATA Carnet in this regard. This is another form is educational exports.

8.4 Summary

115. An unorthodox approach to the ATA Carnet is through the realm of trade in services. This may include exploring the shared African heritage between CARICOM States and Brazil as well as through educational expeditions. CARICOM States boast skilled professionals in both sectors and the ATA Carnet ought to be used to transport the equipment associated with culture, entertainment, and education.

¹⁰⁸ Amanda Nieves, 'Samba group promoting Brazil across island' (The Barbados Advocate, 4 August , 2011) <https://web.archive.org/web/20120506040140/http://www.barbadosadvocate.com/newsitem.asp?more=local&NewsID=19088> accessed on June 18, 2020

¹⁰⁹ Inter-American Development Bank, 'Sector Framework' (Agriculture and Rural Development,) <https://www.iadb.org/en/sector/agriculture/sector-framework> accessed 20 March 2020



9. Complementary Agreements

- *Section 9.1 considers the barriers of air travel between CARICOM States and Brazil which purport to deter trade, despite the close proximity between the parties.*
- *Section 9.2 considers navel agreements to aid companies that travel with larger goods or equipment requiring sea transport.*
- *Section 9.3 considers the necessity of Double Taxation Treaties particularly for Trade in Services.*
- *Section 9.4 considers the usefulness of Bilateral Investment Treaties in boosting International Investment from Brazil.*

9.1 Air Services Agreements

116. The movement of people, goods, services, and capital is central to the success of any trading relationship. International transportation services are those services that are crucial to the physical movement of goods from the exporting country to the importing country. Hence, Barbados (and CARICOM) exporters must be able to travel seamlessly Brazil, lest they be deterred from engaging with the ATA Carnet system. Transport agreements therefore complement the ATA Carnet; the success of the system depends highly on how easy it is to move to and from Brazil.

117. Brazil and CARICOM States appreciate the importance of free-flowing traffic between the two regions. To this end, an air service agreement exists between Guyana and Brazil (the agreement was updated in 2017¹¹⁰). In 2015, the first direct flight between Brazil and Trinidad & Tobago was

¹¹⁰ Ministry of Foreign Affairs Co-operative Republic of Guyana , 'Guyana and Brazil agree to further cooperation in a number of areas' (30 June 2017) <https://www.minfor.gov.gy/press-releases/guyana-and-brazil-agree-to-further-cooperation-in-a-number-of-areas/> accessed 25 February 2020



inaugurated¹¹¹. Negotiations to implement an air services agreement signed in 2008 by the two nations are ongoing.

118. Furthermore, there once existed direct flights between Brazil and Barbados.¹¹² The first direct flight from Brazil to Barbados materialized in 2010. The carrier, GOL (Linhas Aéreas Inteligentes), dominated around 40% of the Brazilian market at the time, and Brazil was the fifth largest market in the world.¹¹³ Hence, this new arrangement brought enormous promise to the region. LIAT and GOL subsequently entered negotiations to, inter alia, harmonise, as far as practicable, their flights schedules.¹¹⁴ The vision underpinning these negotiations was to transform Barbados into a gateway to South America, and a gateway into the rest of the Caribbean (Eastern Caribbean).¹¹⁵

119. Arguably, one of the most evident benefits of the direct flight was the reduction in travel time. This was emphasized by former Chairman of LIAT, Jean Holder, who noted that it took him thirteen hours to arrive in São Paulo from Barbados via Miami.¹¹⁶ This time can be halved by a direct flight.

120. Evidently, there is recognition that the smooth flow of air transportation is critical to maximizing the trade-related benefits. As noted in a recent study by the Caribbean Development Bank, increased and seamless air transport activity stimulates investment in new infrastructure, supports the diffusion of

¹¹¹ Ministry of Foreign Affairs Brazil, 'Republic of Trinidad & Tobago' (Countries and entities with which Brazil maintains diplomatic relations) <http://www.itamaraty.gov.br/en/ficha-pais/11777-republic-of-trinidad-and-tobago> accessed 25 February 2020

¹¹² CARICOM, 'Brasilia Declaration issued by the first CARICOM-Brazil Summit, 26 April 2010, Brasilia, Brazil' (Press Releases, 26 April 2010) <https://caricom.org/brasilia-declaration-issued-by-the-first-caricom-brazil-summit-26-april-2010-brasilia-brazil/> accessed 25 February 2020

¹¹³ Caribbean 360, 'Barbados expecting to score big with GOL' (Press Releases, July 16, 2010) <https://web.archive.org/web/20100716200806/http://www.caribbean360.com/index.php/travel/29919.html> accessed 18 June, 2020

¹¹⁴ The Barbados Advocate, 'Barbados in key position' (Press Releases, June 28, 2010) <https://web.archive.org/web/20120326081612/http://www.barbadosadvocate.com/newsitem.asp?more=local&NewsID=11063>

¹¹⁵ *ibid*

¹¹⁶ *ibid* (It took twenty-four hours to get to Brazil from Antigua)



technical knowledge, and generates a plethora of job opportunities.¹¹⁷ However, decisive action must be realized to conclude an air services agreement between CARICOM States and Brazil, in order to fulfil the purpose of the ATA Carnet.

9.2 Naval Agreements

121. Similar to air transportation, regular and frequent sea transport lines are critical to the movement of goods and, ultimately, the trade relationship between CARICOM States and Brazil. It is against this background that CARICOM leaders agreed in 2010 to convene meetings with port authorities and sea transport companies to explore the possibility of establishing measures aimed at maximizing the flow of sea freight between both parties¹¹⁸. Regrettably, those efforts have not borne fruits. Hence, it is imperative for leaders of CARICOM States reignite negotiations in this area.

122. The inability to move easily, whether by air or by sea, is a massive barrier to trade. Transportation agreements are indispensable to optimizing the use of the ATA Carnet.

9.3 Double Taxation Treaty

123. It is worth emphasizing that the ATA Carnet is a facilitator of trade. It is not a panacea for the trade imbalance. Hence, other agreements must exist to optimize the use of this system. One such agreement is

¹¹⁷ Justin Ram, Damien Reeves, Ronald James, 'Air Transport Competitiveness and Connectivity' (Caribbean Development Bank, 2017) <https://www.caribank.org/publications-and-resources/resource-library/working-papers/air-transport-competitiveness-and-connectivity-caribbean> accessed 18 June 2020

¹¹⁸ CARICOM, 'Brasilia Declaration issued by the first CARICOM-Brazil Summit, 26 April 2010, Brasilia, Brazil' (Press Releases, 26 April 2010) <https://caricom.org/brasilia-declaration-issued-by-the-first-caricom-brazil-summit-26-april-2010-brasilia-brazil/> accessed 25 February 2020



a Double Taxation Treaty. Double taxation arises where the same income or capital is taxed in both treaty partner countries.

124. Any legal person who may pursue business in Brazil/CARICOM States faces the reality of double taxation, which occurs when two States assert their right to tax the same person's income. A double taxation treaty will help both parties to navigate this issue. This will be 'for the avoidance of double taxation' of income arising from cross-border transactions.

125. This can facilitate international investment between CARICOM States and Brazil as it can remove or reduce double taxation on investment. A double taxation treaty also provides certainty and security with respect to taxation on investment since the provisions are unlikely to be changed. Investors can therefore engage in long-term strategic planning as their investments will not be subject to unilateral and abrupt changes in tax policy.

126. Barbados has distinguished itself as an international business hub by concluding forty (40) double taxation treaties.¹¹⁹ Expanding this tax treaty network with Brazil will help to boost trade and investment by allowing businesses to establish tax-efficient investment structures in both jurisdictions.

9.4 Bilateral Investment Treaty

127. Since the ATA Carnet can be used as a promoter of investment, a bilateral investment treaty would help to create a safe and encouraging environment for foreign direct investment in Barbados.

¹¹⁹ Ministry of International Business (Barbados) 'Double Taxation Agreements' (Invest Barbados, 2020) <https://www.investbarbados.org/dtas.php> accessed 18 June 2020



128. When Brazilian investors invest in Barbados and CARICOM States, they would need some form of protection. Bilateral Investment Treaties provide foreign investments fair and equitable treatment, that is, not taking unreasonable or discriminatory measures, and treating investments of foreign investors at least as favourably as investments from its own nationals and nationals of third states.

129. Brazilian investors would be protected from nationalizing or expropriating investments from foreign investors. Other protections include prohibiting regulations that would negatively affect the value of an investment, and allowing funds relating to investments to be freely transferred by foreign investors without delay. Brazilian investors would expect this framework which can only be through a Bilateral Investment treaty or an investment contract to be able to invest in CARICOM States with confidence.

9.5 Summary

130. While the ATA Carnet system has its inherent benefits, in order for CARICOM States to effectively derive said benefits and promote trade, certain complementary agreements must be in place to encourage trade with international stakeholders. Air service agreements and a revitalized direct flight between Brazil and Barbados aid in maximizing the benefits of the ATA Carnet. Similarly, proper naval agreements are pivotal to maximize the flow of sea freight between both parties.



10. Conclusion

131. This memorandum explored the possibility of using the ATA Carnet as a means of promoting CARICOM trade to Brazil. The Caribbean has historically traded within the context of preferential agreements which guaranteed free market access. These were made possible through the Lomé Convention which guaranteed market access to the EU, CARIBAN which guaranteed access to Canada, Caribbean Basin initiative which guaranteed access to the US and the Lomé with the EU. With regards to its South American neighbours CARICOM States have entered agreements with Costa Rica, Venezuela, Columbia but to date there has been no concluded agreement with Brazil.

132. The Brazil economy continues to flourish, and, in this vein, they continue to show interest in investment and promoting trade with developing countries like the Caribbean. The Caribbean has not embraced this opportunity which is evident by the lack of an existing Trade agreement between the nations. Brazil continues to build its trading partners as it believes in multilateralism and pursuing multilateral prerogatives. There continues to be a trade imbalance between Brazil and CARICOM. While CARICOM States have been a producer of a wide range of products, it has not explored the lucrative Brazilian market. MERCOSUL was promised as an organisation for promoting greater access between CARICOM States and Latin America but this has not been fruitful.

133. The ATA Carnet, being the passport for goods, has been trending globally as the document allows duty-free temporary admission in particular goods into states that are party to the ATA Convention. Only non-perishable goods are permitted, and they must be reported within 1 year. There has been an increasing number of ATA Carnets given the lack of hassle associated with it. Brazil is party to the ATA Convention, but the CARICOM States must be party for its operation to be reciprocal.

134. The ATA Carnet system is primarily used for trade in goods. In the context of CARICOM States and Brazil, it may be used to encourage opening new markets, maintaining, and increasing existing market share, and obtaining market intelligence.



135. An unorthodox approach to the ATA Carnet is through the realm of trade in services. This may include exploring the shared African heritage between CARICOM States and Brazil as well as through educational expeditions. CARICOM States boast skilled professionals in both sectors and the ATA Carnet ought to be used to transport the equipment associated culture, entertainment, and education.

136. Possible investors would be able to use the temporary passport for goods to make initial proposals that would often require physical models and in some cases, machinery for inspection. While this benefit can be accrued by both parties, CARICOM's current investment framework has significant room for improvement considering the unstable and outdate legal frameworks and significant costs associated with traveling to and within the region.

137. While the ATA Carnet system has its inherent benefits, in order for CARICOM States to effectively derive said benefits and promote trade, certain complementary agreements must be in place to encourage trade with international stakeholders. Air service agreements and a revitalized direct flight between Brazil and Barbados aid in maximizing the benefits of the ATA Carnet. Similarly, proper naval agreements are pivotal to maximize the flow of sea freight between both parties. Bilateral Investment Treaties and Preferential Trade Agreements are also necessary.



11. Appendices

Appendix	Name
1	Brussels Convention on the ATA Carnet
2	Istanbul Convention on Temporary Admission
3	List of Parties to the Brussels ATA Carnet Convention
4	List of Parties to the Istanbul Convention on Temporary Admission
5	ATA Carnet Forms adopted from the United States Council for International Business
6	Trinidad & Tobago ATA Carnet Bill
7	Practical How-to Guide
8	Revised Treaty of Chaguaramas