

CARIBBEAN SINGLE MARKET & ECONOMY: WHAT IS IT AND CAN IT DELIVER?

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I. INTRODUCTION

The Treaty of Chaguaramas, as amended by the Grand Anse Declaration and other documents pertinent to the creation of the Caribbean Single Market & Economy (CSME)¹, outlines the establishment of a Common Market and eventual creation of an Economic Union. What is an economic union? What benefits can it deliver for the Caribbean?

There is, today, only one economic union in existence—the European Union (EU). The signatories of the Treaty on Economic Union pledged “to achieve the strengthening and the convergence of their economies and to establish an economic and monetary union.”² The economic space that comprises the European Community³ emerged as a powerful trade bloc to which countries aspire to access at the same time that they close ranks against its perceived threat to their own economies. The increasing number of regional

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1. See Duke Pollard, *The Caricom System, Basic Instruments, The Revised Treaty of Chaguaramas*, 472-521 (The Caribbean Law Pub. Co.) (2003) [hereinafter *Treaty of Chaguaramas*].

2. Treaty on European Union, Together with the Treaty Establishing the European Economic Community, Feb. 7, 1992, Introduction of Signatories, 1992 O.J. (C 224) 1 [hereinafter *TEU*].

3. The European Community (EC) can be viewed as the political vehicle that underlies the economic integration process in Europe and emergence of the European Union (EU). The theories and processes of political and of economic integration are quite distinct, however, and it must be made clear that Europe has not embarked on the path of political integration. Rather, the region has created the necessary political vehicles to foster the economic integration process.

trade blocs is typically viewed, at least in part, as countries' response to the growing strength and breadth of the European unified market.

On the one hand, there is a reactive, protectionist trend which anticipates closure or decreased access to the European market with a resultant need to create alternative regional economic space as counterweight.⁴ There is also the impetus promoted by the belief that regionalization offers several advantages in the pursuit of economic development. First, regional trading blocs can create a wider regional market for trade. They also create the potential to achieve regional economies of scale which in turn can spur economic growth and income generation. This is the evolution in the EU that has been most marked.⁵ Secondly, the regional integration process can spur and consolidate internal economic reforms. The EU, for instance, insists that aspiring members accomplish a variety of fiscal and economic reforms in order to be eligible for membership. On the other side of the world, Mexico used its membership in the North American Free Trade Area (NAFTA) to introduce economic reforms.⁶ A third perceived benefit is the enhancement of negotiating capacity with third countries and on the multilateral arena. Yet again, the EUs dominant position in multilateral negotiations is evidence of this benefit.⁷

Caribbean Community (CARICOM) governments have been propelled toward regionalization by the vision of regionalization as a solution to external and internal threats to the countries' economic security and well-being. The region's expectations for the CSME can best be stated in the words of one of its leading architects and proponents, the Prime Minister of Barbados, the Honorable Owen Arthur, asserts

[CSME] offers the societies of the region, individually and collectively, the only realistic and viable option by which to achieve sustainable development, and in the process the prospect of erasing the two great economic deficits which confront the region at the start of this new century. The first is the wide gap between the material progress which our region can, with effective resource use, attain as compared to what has so far been achieved; the second is the gap

4. For example, the literature repeatedly cites the emergence of the European Common Market as a major factor in the U.S. impetus to create first NAFTA, and now the FTAA. See e.g. Richard Bernal, *Regional Trade Arrangements in the Western Hemisphere*, 8 AM. U.J. INT'L. & POLY 683, 691-97, 688-89, 707 (1993).

5. The economic emergence of Ireland is testament to the success of the mechanisms the EC uses to pull with them their less advanced members.

6. Whalley, John, "Why Do Countries Seek Regional Trade Agreements?" in *The Regionalization of the World Economy*, 71-72 (Jeffrey A. Frankel ed., 1998).

7. See Maurice Schiff and L. Alan Winters, *Regional Integration and Development*, pp. 6-10 (2003). (Discussing the reasons fueling the recent spurt in regionalism).

between the material expectations and needs of our people and our capacity thus far to meet them. The CSME also represents the most effective means by which the individual economies of the region can be successfully integrated into the proposed new Hemispheric economy and the evolving global economic system on terms that will enable them to minimize the costs and dislocations that ensue from that integration, while maximizing the potential benefits.⁸

Can the CSME accomplish for the Caribbean what the EU has for Europe?

II. CHARACTERISTICS OF THE ECONOMIC UNION AS A MODEL FOR ECONOMIC INTEGRATION

The 1992 Treaty on Economic Union established “a new stage in the process of creating an ever closer union among the peoples of Europe,” and outlined several objectives toward that end.⁹ The first stated objective is “to promote economic and social progress which is balanced and sustainable, in particular through the creation of an area without internal frontiers, through the strengthening of economic and social cohesion and through the establishment of economic and monetary union, ultimately including a single currency...”¹⁰ The Treaty clearly states the goal of “establishing a common market and an economic and monetary union” in order

to promote throughout the Community a harmonious and balanced development of economic activities, sustainable and non-inflationary growth respecting the environment, a high degree of convergence of economic performance, a high level of employment and of social protection, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States.¹¹

The above language very clearly reflects the strong development thrust of the economic integration process in Europe. A primary tool was to be the creation of the European common market which abolished barriers to the free flow of goods, services, and people and remove restrictive practices that divide markets or otherwise interfere with economic integration. A necessary component was the formulation of common policies and harmonized regulations in

8. Owen Arthurs, Remarks at American Business and Consulting Group Special Symposium (April 2, 2004), (transcript available at www.caricom.org).

9. TEU, *supra* note 2, at Common Provisions, art. A.

10. *Id.* art. B.

11. TEU, Together with the Treaty Establishing the European Economic Community, Title II Treaty Establishing the European Community pt. 1, art. 2, 1992 O.J. (C 224) 1.

a wide range of economic, social and other sectors. The ultimate goal was to reach the stage where the flow of goods, capital, services, and capital among the EU member states was similar to that which takes place within the confines of a national territory.¹² In 1995, the states declared that they had successfully established the harmonization necessary to introduce a common currency, the euro, signaling their arrival at the stage of the economic union.

An economic union has four essential characteristics that reflect its position as the last stage in the economic integration process. Each of the following four characteristics exists as a step or stage at which a group of countries can choose to stay, or use as a step toward deeper integration and Economic Union. The characteristics/stages are:

- 1) Removal of tariffs and other restrictions against the goods (and/or services) of member states, otherwise known as a Free Trade Area;
- 2) Imposition of a common customs tariff or Common External Tariff (CET) on the goods of non-members entering the free trade area. At this stage, a Customs Union is created in which the CET co-exists with a free trade area;
- 3) Extension of the right of free movement to all the factors of production, e.g. labor and capital to the members of a Customs Union. This stage is known as a Common Market; and,
- 4) Harmonization of monetary and fiscal policy with the introduction of one currency into the common market, at which stage Economic Union has been achieved.¹³

Each stage requires increasing degrees of cooperation. The latter two forms require a certain indispensable degree of co-ordination and harmonization of national economic policies.¹⁴ To illustrate, the Free Trade Area of the Americas (FTAA) currently being negotiated envisions only the removal of tariffs and other trade barriers with no plans to advance beyond this first stage. This is true of most regional economic blocs today. On the other hand, the EU began at an even earlier stage—sectoral cooperation with the European Coal and Steel Community—and slowly advanced along various stages until the introduction of the euro signaled its arrival at an Economic Union. At what stage of this continuum does the CSME lie?

12. Paulo Borba Casella, *The Common Market of the South (MERCOSUR): Models and Qualitative Mutations for Consolidating an Integrated Economic Area*, 9 *Ann. Surv. Int'l & Comp. L.* 1, 11 (2003).

13. Richard Gibb, *Regionalism in the World Economy*, in *Continental Trading Blocs: The Growth of Regionalism in the World Economy* (Richard Gibb and Wieslaw Michalak eds., 1994).

14. Casella, *supra* note 12, at 8-9.

III. INITIAL ATTEMPTS BY CARICOM AT ECONOMIC INTEGRATION

The goal of economic integration was envisaged at the initiation of CARICOM with the Treaty of Chaguaramas in 1973. It anticipated the creation of a common market through the removal of trade restrictions and the abolition of migratory constraints among CARICOM countries.¹⁵ The Treaty Annexes provided for five areas of activities toward the creation of the Common Market:

- 1) Trade liberalization;
- 2) Establishment of the Common External Tariff;
- 3) Common Protective Policy;
- 4) Providing for free movement of factors of production, and;
- 5) Coordination of economic policies and production integration.¹⁶

This initial movement was spectacularly unsuccessful, for several reasons.

Externally, almost immediately the countries were catapulted into the world economic crisis triggered by the substantial increase in the price of petroleum and its related products in the early seventies.¹⁷ In the continued climate of dependence, this led to escalation of debt and eventual debt crisis. Most of the countries became distracted from questions concerning intra-regional trade and focused on their survival.¹⁸

Looking inside the region for reasons for the failure of earlier attempts at economic integration, one finds a lack of political will and misdirected efforts. For example, countries were motivated to develop regional production capacity, for example in the smelting of aluminum and food production to relieve the reliance on food imports. A Regional Food Plan was announced in 1975 under which the countries agreed to develop a livestock complex for milk and dairy products, mutton and lamb, pork, poultry, and hatching eggs.¹⁹ However, efforts focused on state-driven endeavors. At the same time, left intact were the existing barriers to the movement of people, capital, etc. that would have created incentives for a private sector-led approach to this worthwhile endeavor. In sum, the region's early attempts to establish a successfully-operating common market failed.²⁰

15. Kenneth Hall, *Re-Inventing CARICOM The Road to a New Integration* (Ian Randle Publishers 2000).

16. *Id.* at xvi.

17. *Id.*

18. In fact, for seven years CARICOM was for all intents and purposes, defunct as none of its organisms, including the annual meeting of the Heads of States, functioned. *Id.* at 51.

19. *Id.* at xix.

20. Richard Bernal outlines the combination of internal and external factors that led to the failure of regional integration movements in Latin America and the Caribbean in the 1980s. See Bernal, *supra* note 4, at 683, 688-89.

At the Tenth Meeting of the Conference of Heads of Government of the Caribbean Community in Grenada, July 3-7, 1989, the region revived the economic integration movement. Governments adopted the Grand Anse Declaration and Work Programme for the Advancement of the Integration Movement. This declaration started the long, and often hesitant, road to the formation of the Caribbean Single Market and Economy.

IV. TRADE LIBERALIZATION CHARACTERISTICS OF THE CSME

A regional market of six to fourteen million people, and free movement within this market of people, goods, services, and capital are the promised benefits of the CSME. One of the first promised benefits is for the revised Treaty of Chaguaramas to create a free trade area through the removal of tariff and non-tariff barriers to the movement of goods that originate in a CSME member state. Barbados, Jamaica and Trinidad & Tobago have already enacted the implementing legislation and other CSME signatories have pledged to implement by the end of 2005. The second promised benefit is the imposition of a CET on goods that are not of CSME origin. Together, these two benefits aim to create one regional market with preferential access for goods that originate in a CSME member state. In addition, the third promised benefit is the right of free movement. The right of free movement of the factors of production envisages lifting of restrictions on work within the region on certain categories of workers and service providers and lifting restrictions on movement of capital. By the end of 2005 members have committed to lifting restrictions against the nationals of other CSME countries that prevent access to loans or only on terms less favorable to those afforded to nationals, investment and development incentives that are made available only to nationals; and exchange control restrictions that add to the cost of doing business across CARICOM borders. Finally, the states contemplate fiscal harmonization with a more long-term goal of establishing one currency for the CSME.²¹

In sum, CARICOM has enunciated the goal of establishing by the end of 2005 a common market for the free movement of goods, services, certain categories of labor, and capital within the region. Successful establishment of a common market is a necessary first step toward the longer-term goal of creating an economic union with the eventual introduction of one regional currency. The gap between the two phases can be quite long. Successful operation of the Common External Tariff, something with which the region continues to struggle, is an essential prerequisite to this phase.

21. Hall, *supra* note 15, at 52-61 (documenting the progress through excerpts from meetings of the Conference of Heads of Government up through the present).

V. ROLE OF THE CET IN THE SUCCESSFUL OPERATION OF THE COMMON MARKET

A common external tariff, which applies one uniform tariff scheme to all imports into the region from other countries, is essential to the successful operation of a common market. The CET performs two main functions to allow the common market to yield the anticipated benefits. The first function of the CET is to maintain privileges only for those that can claim origin as a CSME member state. This eliminates the incentive for non-CSME goods to enter into the member country with the lowest tariff and non-tariff barriers for non-CSME goods. It also removes the even greater concern that goods will be transhipped from those countries to the rest of the region on a tariff-free basis. The CET also functions to attract investors who wish to take advantage of the privileges of membership. In a small region like the Caribbean the similarity in geographic and other conditions means that countries often produce the same products.²² With the CET in place, investors wishing access to the regional market on the most advantageous terms will be motivated to establish operations within the region to qualify for the benefits of membership.

One common motive for foreign direct investment is to boost local sales and market access.²³ The removal of barriers to the intra-regional movement of goods, capital, and services creates a regional, as opposed to a national, base of potential consumers. Additionally, the CET provides a mechanism by which to ensure that access on the most preferential basis to that increased potential market is available only to those who invest directly through the establishment of operations with the region. Of course, the use of rules of origin can serve the same purpose. However, rules of origin pose governance problems for developing countries; they are opaque, difficult to negotiate and complex to operate.²⁴ Furthermore, rules of origin do not prevent members from meeting their own requirement for a product from the rest of the world and then transferring its own production to its partners.²⁵ Thus, successful operation of a CET can reduce the costs of operating the trade system, while attracting the investments that offer opportunities for diversified economies, increased employment, greater income generation, and the development of the region.

Unfortunately, it is this aspect of the CSME that remains most problematic. The original, and revised, Treaty of Chaguaramas called for the establishment

22. Bernal, *supra* note 4, at 717 (discussing the limitations of regional integration in small areas like the Caribbean where the same products are produced primarily for export outside the region).

23. Schiff, *supra* note 7, at 117.

24. *Id.* at 80. Schiff further notes that rules of origin allow customs authorities, and individual customs officers, a good deal of discretion, and that the administrative cost of ensuring that this discretion is not abused is high while the cost of failing to do so is even higher.

25. *Id.* at 81.

of a CET, but further allowed the alteration or suspension of the CET by any member where the product is not being produced in the region or the quantity or quality of the CSME good does not satisfy the member applying for the waiver.²⁶ This provision may be necessary in recognition of the limitations of Caribbean economies as well as the sovereign right of countries to determine their own trade policy. However, the problem is that the CET has never been operational. CARICOM meetings of Heads of Government, the highest organ of the Community, are rife with discussions of the need to implement the CET.²⁷ Those members that have implemented the CET use the waiver provisions indiscriminately. As of April 2004, six CSME member states continued to impose tariffs on Caribbean origin goods. It is difficult not to hold the suspicion that one underlying factor behind this slow pace and the countries' requests for suspension or alteration of the CET is that there is a greater commitment to a bilateral partner than to the regional integration process. However, for CARICOM to realize the benefits of regionalization, the CSME must do more than create opportunities for freer movement within the region. It needs strong investment vehicles and incentives. The CET is a vehicle that can be used to attract to the region investors wishing to enjoy the benefits of membership in the bloc.

VI. CONCLUSION

Like the EU, the states of the Caribbean Community, have set on the road to creating an economic union in the form of the Caribbean Single Market and Economy. Like the EU, where the process took at least ten years longer than originally envisioned, the road to the establishment of the CSME is prolonged and full of stops and turns. Nevertheless, CARICOM governments remain committed to the process. "The creation of a Caribbean Single Market and Economy is a historic necessity which must be brought to full fruition, no matter how arduous the task may at times appear, how negligible the immediate returns, or how vast the pitfalls and obstacles that threaten to ensnarl it."²⁸

Some immediate benefits are already apparent. Operation as a region on the multilateral trade arena has raised the visibility and bargaining power of the region. A key question is toward what end and how is it being used? While more work remains to be done to give the concept some specific content, special and differential treatment for small nation states is a primary push and the region has gained support in principle for this approach.

26. Treaty of Chaguaramas, *supra* note 1, art. 83.

27. See Hall, *supra* note 15, at 52-54.

28. Arthur, *supra* note 8.

Additionally, CSME has been a vehicle for internal economic reform within the region. The region has been closed off even to itself. The regulatory costs of doing business have remained high, and barriers have made it difficult to operate in another country. The removal of legislative and regulatory barriers necessary to create this wider regional market has, to date, been one of the most positive outcomes of the economic integration process in the Caribbean.