

**THE CARIBBEAN COMMUNITY (CARICOM)
- ITS STRUCTURE AND FUNCTIONS -**

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The hopes for regional integration of the English-speaking non-independent Caribbean countries was born with the establishment in 1958 of the grouping of ten island territories from Jamaica to Trinidad and Tobago known as the British West Indies Federation with the Federal Capital, the seat of the Federal Government, sited in Trinidad and Tobago. That hope for regional integration ended temporarily, however, with the dissolution of the Federation in 1962. Jamaica and Trinidad and Tobago soon after became sovereign states within the Commonwealth of Nations on 6 and 31 August, respectively, in the same year.

The end of the British West Indies Federation was, however, the beginning of more serious efforts on the part of the political leaders of the English-speaking Caribbean countries at that time to strengthen the ties among them resulting in the maintaining of certain common services which were beneficial to the countries, for example, the continuation of the University of the West Indies actually founded in 1948 as the University College of the West Indies by Royal Charter and the Regional Shipping Services established during the life of the Federation operating two ships - the Federal Palm and the Federal Maple - donated in 1962 by the Government of Canada.

In July 1965, the Premiers of Barbados and British Guiana and the Chief Minister of Antigua discussed the possibility of establishing a Free Trade Area in the Caribbean. This resulted in the signing in December of that same year at Dickenson Bay, Antigua, of the Agreement to establish the Caribbean Free Trade Association (CARIFTA). However, in the interest of common action and close cooperation among all the Commonwealth Caribbean countries, the actual start of the Free Trade Association was deliberately delayed in order to allow for the other territories - Jamaica, Trinidad and Tobago and the Windward and Leeward Island - to become members of the new entity - the Caribbean Free Trade Association.

The Fourth Heads of Government Conference of the English-speaking Caribbean Countries, held in October, 1967 agreed to establish CARIFTA formally and to include as many Commonwealth Caribbean countries as possible in a new agreement. It was also agreed by the Heads of Government that the Free Trade Association would be the beginning of what would become the Caribbean Common Market established to achieve a viable Economic Community of Caribbean Territories. The new Agreement to establish CARIFTA came into effect on May 1, 1968 with the participation of Antigua, Barbados, Guyana and Trinidad and Tobago. Dominica, Grenada, St Kitts/Nevis/Anguilla, Saint Lucia and St Vincent became parties to the Agreement in July 1968, Jamaica and Montserrat on 1 August 1968 and British Honduras (now Belize) in May, 1971.

The Commonwealth Caribbean Regional Secretariat was established on May 1, 1968 in Georgetown, Guyana, as the Headquarters of CARIFTA.

At the Seventh Heads of Government Conference in October, 1972, the Heads of Government decided to transform CARIFTA into a Common Market and to establish the Caribbean Community of

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which the Common Market would be an integral part.

It was also the conviction of the Heads of Government that it was opportune, and even necessary, to establish the Community in anticipation of the entering into negotiations on trade and other issues with the European Community.

The Caribbean Community and Common Market (CARICOM) was established by the Treaty of Chaguaramas (the place where it was signed in Trinidad) signed by Barbados, Jamaica, Guyana and Trinidad and Tobago on July 4, 1973, and entered into force subsequently on August 1, 1973. The other eight Caribbean territories - Antigua and Barbuda, British Honduras (Belize), Dominica, Grenada, Saint Lucia, Montserrat, St Kitts/Nevis/Anguilla and St Vincent - became members of CARICOM subsequently. The Bahamas became the thirteenth (13th) Member State of the Community on July 4, 1983, but it is not a member of the Common Market.

In July, 1991, at the Conference of Heads of Government, the British Virgin Islands and the Turks and Caicos Islands became Associate Members of CARICOM. Associate membership of the Community is subject to such terms and conditions determined by the Conference of Heads of Government and agreed to by the Government of the Associate Member. Because the British Virgin Islands and the Turks and Caicos Island are dependent territories of the United Kingdom, their participation in the affairs of CARICOM is subject to the reservation that the United Kingdom Government maintains responsibility for the defence and external relations of these two territories particularly in the light of one of the objectives of the Community being the coordination of the foreign policies of Member States. Some other Caribbean and Latin American countries enjoy Observer Status in some of the Ministerial and other bodies of CARICOM.

Suriname became the 14th member of CARICOM on July 4, 1995 and the Conference of Heads of Government has agreed to the admission of Haiti to membership of the Community subject to Haiti complying with certain conditions and procedures.

The objectives of CARICOM are set out in Article 4 of the Treaty of Chaguaramas as follows -

(a) the economic integration of the Member States by the establishment of a common market regime in accordance with the provisions of the Annex to the Treaty with the following aims:-

- (i) the strengthening, coordination and regulation of the economic and trade relations among Member States in order to promote their accelerated harmonious and balanced development;
- (ii) the sustained expansion and continuing integration of economic activities, the benefits of which shall be equitably shared taking into account the need to provide special opportunities for the less developed countries;

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- (iii) the achievement of a greater measure of economic independence and effectiveness of its Member States in dealing with states, groups of states and entities of whatever description;
- (2) the coordination of the foreign policies of Member States;
- (3) and functional cooperation, including -
 - (i) the efficient operation of certain common services and activities for the benefit of its peoples;
 - (ii) the promotion of greater understanding among its peoples and the advancement of their social, cultural and technological development;
 - (iii) activities in the fields specified in the schedule (to the Treaty) and referred to in Article 18, for example, shipping, air transport, meteorological services, disaster preparedness, health, intra-regional technical assistance, intra-regional public service arrangements, education and training, culture, harmonisation of the law and legal systems of Member States, the position of women in Caribbean society, travel within the Community, labour administration and industrial relations, technological and scientific research, social security and such other common services and areas of functional cooperation as may be determined, from time to time, by the Conference of Heads of Government.

The principal organs of CARICOM under the original Treaty (prior to its revision which commenced in 1997) were (a) The Conference of Heads of Government, and (b) the Common Market Council. The Conference as the supreme policy-making body of the Community consists of the Heads of Government of the Member States, each member of the Conference having one vote. Decisions and recommendations of the Conference require the affirmative vote of all of its members, the former being binding on each Member State. However, recommendations of the Conference are not binding but, if a Member State fails to observe or comply with a recommendation of the Conference it must submit a report to the Conference as soon as practicable but not later than six (6) months giving reasons for its non-compliance.

The Conference of Heads of Government is also the final authority for the conclusion of treaties and other agreements on behalf of the Community and for entering into relationships between the Community and States and international organisations. The Conference is also responsible for making the financial arrangements to meet the expenses of the Community.

For a number of years since its establishment, the Conference met annually during the first week in July in a Member State coinciding with the anniversary of the signing of the Treaty of Chaguaramas on July 4, 1973. Since 1990, the Conference also meets once between the annual sessions.

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There is a Committee of the Conference of Heads of Government styled the Bureau, consisting of the Chairman for the time being of the Conference, the immediate past Chairman and the incoming Chairman. The Conference has power under the Treaty of Chaguaramas to delegate to the Bureau the following functions -

- (a) initiating proposals for development and approval by the Ministerial Councils as it considers necessary;
- (b) updating consensus among Member States on issues to be determined by the Conference;
- (c) facilitating implementation of Community decisions in an expeditious and informal manner; and
- (d) providing guidance to the CARICOM Secretariat on policy issues.

The Common Market Council, which consisted of one Ministerial representative of a Member State of the Common Market, was the principal organ of the Common Market entrusted with the responsibility of ensuring the achievement of the objectives of the Common Market, including the efficient operation and development and the settlement of problems arising out of its functioning. However, under paragraph 3 of Article 8 of the Treaty establishing the Community, the Conference of Heads of Government, as the supreme policy-making body of the Community, was vested with the authority to issue general or special directions relating to the policy to be pursued by the Council for the achievement of the objectives of the Community.

The Treaty provided for a number of Ministerial bodies known as Institutions of the Community which were allocated responsibility for subject areas within the portfolios of the respective Ministers at the national level. These are subject areas the promotion and development of which require collective regional action or for which such action is considered beneficial or desirable. These subject areas included, for example, agriculture, education, finance, foreign affairs, health, labour and transportation (sea and air). These ministerial institutions or bodies consisted of ministerial representatives of the Member States and they met annually in a Member State.

In 1989 at their Tenth Conference held at Grand Anse, Grenada, the CARICOM Heads of Government resolved to proceed to the creation of a Single Market and set a time-table for the establishment of certain mechanisms and the taking of certain measures leading towards the goal of establishing the Single Market, for example, the revision of the Common External Tariff and the Rules of Origin, the introduction of a revised harmonised scheme of Fiscal Incentives, intensifying consultation and cooperation on monetary, financial and exchange rate policies, the removal of the remaining barriers to regional trade and the establishment of procedures and other arrangements to facilitate the free movement of categories of skilled and professional persons within the Community, including contract workers on a seasonal basis. The Grand Anse Declaration also called on the Governments of

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Member States to permit the use of alternative satisfactory means of identification in place of passports to facilitate travel within the Community by the peoples of the Community.

The decision to create the CARICOM Single Market was also a reaction to the unfolding global economy.

In the Grand Anse Declaration, the CARICOM Heads of Government announced the establishment of the West Indian Commission under the Chairmanship of Sir Shridath Ramphal, former Foreign Minister of Guyana and later Commonwealth Secretary-General, to make recommendations to advance the goals of the Treaty of Chaguaramas in the light of the dawn of the 21st century.

Consequent on the recommendations in the Report of the West Indian Commission, the Conference of Heads of Government in a special session in Port-of-Spain, Trinidad, in October 1992, agreed to the restructuring of the Caribbean Community in certain important respects including, in particular -

- (a) relaxation of the voting procedure in the Conference of Heads of Government and in other organs of the Community to enable decisions to be made in some instances otherwise than by the affirmative vote of all of its members;
- (b) designating the Conference of Heads of Government and the Community Council of Ministers (to be created) as the principal organs of the Community;
- (c) establishing the Community Council of Ministers consisting of Ministers responsible for Community Affairs or any other Minister designated by a Member State, with primary responsibility, in accordance with the policy directions established by the Conference, for the development of community strategic planning and coordination in economic integration, functional cooperation and external relations;
- (d) The establishment of the following Ministerial Councils and organs of the Community -
 - (i) the Council for Finance and Planning;
 - (ii) the Council for Trade and Economic Development;
 - (iii) the Council for Foreign and Community Relations consisting of Ministers responsible for the Foreign Affairs of the Member States; and
 - (iv) the Council for Human and Social Development.

It is to be noted that the abovementioned restructuring of the Community has resulted in the abolition of the several Standing Committees of Ministers responsible for subject areas and regrouping their respective areas of activity under the jurisdiction of the appropriate newly created Council. It is expected that this new arrangement will result in a reduction of the number of Ministerial meetings

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usually convened and also a consequential reduction of expenditure to be incurred by the Member States and by the Community's Secretariat in providing administrative services for those meetings.

There are three bodies established, for the time being, as Subsidiary Bodies of the Community, namely -

- (a) the Legal Affairs Committee, consisting of the Ministers responsible for Legal Affairs or Attorneys-General and responsible for providing the organs and Subsidiary Bodies of the Community either on request or, on its own initiative, with advice on treaties, international legal issues, the harmonisation of laws of the Community and other legal matters;
- (b) the Budget Committee, consisting of senior officials of the Member States, responsible for examining the draft Budget and work programmes of the Community prepared by the Community Secretariat, and for submitting recommendations to the Community Council;
- (c) the Committee of Central Bank Governors consisting of the Governors or Heads of the Central Banks of Member States or their nominees, responsible for making recommendations to the Council for Finance and Planning on monetary and other related matters referred to it by Organs of the Community.

There are entities established by or under the auspices of the Community and they are recognised as Institutions of the Community, for example -

- (i) the Caribbean Disaster Emergency Response Agency (CDERA);
- (ii) the Caribbean Meteorological Institute (CMI);
- (iii) the Caribbean Meteorological Organisation (CMO);
- (iv) the Caribbean Food Corporation (CFC);
- (v) the Caribbean Environmental and Health Institute (CEHI);
- (vi) the Caribbean Agricultural Research and Development Institute (CARDI);
- (vii) the Caribbean Regional Centre for Education and Training of Animal Health and Veterinary Public Health Assistants (REPAHA);
- (viii) the Association of Caribbean Community Parliamentarians (ACCP);
- (ix) the Caribbean Centre for Developmental Administration (CARICAD); and
- (x) the Caribbean Food and Nutrition Institute (CFNI).

Other such entities may be designated by the Conference.

There are also Associate Institutions of the Community which are entities enjoying important functional relationships which contribute to the achievement of the objectives of the Community. These are the Caribbean Development Bank, the University of the West Indies, the University of

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Guyana and the Caribbean Law Institute Centre. The Conference of Heads of Government may designate other entities as Associate Institutions of the Community.

The original Treaty is being revised by a number of Protocols dealing with matters relating to the functioning of the Community as follows -

Protocol I providing for the restructuring of the Community - its organs, Institutions and Procedures in order to create the CARICOM Single Market and Economy;

Protocol II addressing the Right of Establishment, the right to provide services and the right to move capital within the Community by nationals of Member States of the Community within the single economic space being created;

Protocol III addressing Industry Policy for the Community;

Protocol IV addressing trade policy involving important issues such as entitlement to area origin treatment, the establishment of a regime for the free movement of goods, a common protective policy in respect of third countries, dumping and subsidies, co-operation in customs administration and safeguard provisions.

Protocol V addressing the Community Agricultural Policy;

Protocol VI addressing the Community Transport Policy;

Protocol VII making special arrangements for disadvantaged countries, Regions and Sectors;

Protocol VIII establishing procedures for disputes settlement;

Protocol IX addressing Rules of Competition.

An important feature of the institutional restructuring of the Caribbean Community is the decision of the Governments of Member States to establish the Caribbean Court of Justice as the indigenous final appellate Court for the Community exercising an appellate jurisdiction in respect of appeals from the decisions of the national appellate courts of Member States and, in so doing, abolish the jurisdiction of the Judicial Committee of the Privy Council in the United Kingdom.

The establishment of a final regional appellate court for the English-speaking Caribbean Countries has been on the Caribbean agenda for many years and is one of the significant recommendations in the Report of the West Indian Commission.

The establishment of the CARICOM Single Market and Economy highlights the need to provide mechanisms and processes for the expeditious settlement of disputes among Member States arising

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from the interpretation or application of provisions of the Treaty which established the Community. The Court will, therefore, be vested with an original jurisdiction.

There are high expectations that the establishment and functioning of the Caribbean Court of Justice will become a reality in 2000.

Mention must be made of the Assembly of Caribbean Community Parliamentarians created as a body within the structure of the Caribbean Community, as a result of the adoption of a proposal by the Prime Minister of Barbados at the Ninth Meeting of the Conference of CARICOM Heads of Government. The Assembly was established by means of an Inter-Governmental Agreement signed and ratified by Member States of the Community which entered into force on August 3, 1994.

The Assembly comprises not more than four parliamentarians representing each Member State of the Community and not more than two such representatives from each Associate Member of the Community.

The Assembly is a deliberative body providing a forum for the people of the Community through their representatives to deliberate periodically on issues affecting the Community and its people, and in respect of which representations and recommendations may be made to the Conference of Heads of Government of the Community. However, it is outside the competence of the Assembly to deliberate on or adopt resolutions on matters which fall exclusively within the domestic jurisdiction of a CARICOM State.

The Agreement establishing the Assembly requires the Assembly to meet at least once annually in rotation in a Member State or in the territory of an Associate Member. The Inaugural meeting of the Assembly was fittingly held in Barbados on 27-28 May, 1996.