



RESTRICTED  
 CDCC/CCST/84/8  
 10 September 1984  
 ORIGINAL: ENGLISH

ECONOMIC COMMISSION FOR LATIN AMERICA AND THE CARIBBEAN  
 Subregional Headquarters for the Caribbean  
 CARIBBEAN DEVELOPMENT AND CO-OPERATION COMMITTEE  
 CARIBBEAN COUNCIL FOR SCIENCE AND TECHNOLOGY  
 Fourth Plenary Session  
 at Jumbona, Antigua  
 17-19 September 1984



MEMBERSHIP OF THE NETHERLANDS ANTILLES  
 TO THE CCST



**UNITED NATIONS**

ECONOMIC COMMISSION FOR LATIN AMERICA Office for the Caribbean

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In 1981 at the Sixth Session of the Caribbean Development and Co-operation Committee (CDCC) the Netherlands Antilles were accepted as an Associate Member of the CDCC.

In 1982 the Netherlands Antilles requested membership to the CCST under Article 4 of the Statutes which states that "Membership of the Council shall be open to Member Countries comprising the CDCC".

The matter was discussed at the Second Plenary Session of the CCST in 1982 which directed that the Council should seek an amendment to its statutes to allow for Associate Membership in view of the fact that the Netherlands Antilles were Associate and not full Members of the CDCC. At the Third Plenary Session in 1983 a proposed Amendment to Article 4 was tabled. The proposed Amendment reads as follows:

"The Council may admit as an Associate Member of CCST, any Associate Member of the Economic Commission for Latin America within the Caribbean region.

Representatives of Associate Members shall be entitled to participate fully without the right to vote in the meetings and work of the Council and of those of its subsidiary bodies on which all members of CCST are represented".

The Netherlands Antilles sought clarification as to possible interpretations of certain phrases in the proposed amendment. These were:

1. Article 4 of the Statutes states that "Membership of the Council shall be open to member countries comprising the CDCC," while the amendment states that "The Council may admit as an associate member any associate member of ECLAC within the Caribbean region". The Netherlands Antilles were of the opinion that the wording used in the proposed amendment opened up the possibility that in the future non-members of the CDCC but associate members of ECLAC may become associate members of the CCST and that this could lead to undesirable situations in the future.

2. They noted that the phrase "Representatives of associate members shall be entitled to participate ..... subsidiary bodies on which all members of CCST are represented" could imply that associate members can only participate in the meetings and work of the Council and those of its subsidiary bodies when all Council members are represented.

3. Also that the proposed amendment did not mention what competency the associate members are entitled to when it comes to holding office or when it concerns the right to vote in the Subsidiary bodies (analogous to the ECLAC System).

The Council decided that pending advice from the Office of the Legal Counsel of the United Nations on the above mentioned interpretations, in the meantime the Netherlands Antilles should be invited to participate in the work of the Council, as appropriate and that efforts should continue to establish the necessary mechanism by which the Netherlands Antilles could achieve full membership in CCST.

The Office of the Legal Counsel held the view that:

"1. We note that the text of the proposed amendment is the same as that which the Office of Legal Affairs proposed as an additional paragraph to the existing text of Article 4.

2. Paragraph 1 of the proposed new Article 4 provides that membership of the Council shall be open to member countries comprising the CDCC. In our view the correct legal interpretation of these provisions is that full membership of the Council (CCST) is open to those countries that are full members of the CDCC. The first paragraph which is the existing text of Article 4 was not intended to govern associate membership and it is for that reason that an amendment was necessary. Associate membership in CCST is governed by the proposed amendment to Article 4 which we have suggested should appear as an additional paragraph to the existing text.

3. The second paragraph of the proposed new Article 4 provides that any associate member of ECLAC which is geographically located within the Caribbean region may be admitted by the Council as an associate member of CCST. Thus the only two requirements that need to be satisfied before an entity is granted the status of an associate member in CCST are: (a) associate membership in the

Economic Commission for Latin America and the Caribbean; and (b) it must be located within the Caribbean region. Even if these two requirements are satisfied, associate membership in CCST of the entity concerned is not automatic but must be expressly approved by the Council. We are therefore unable to understand why the first sentence of this paragraph has been interpreted by the Council in a way that adds a further requirement for Associate Membership in CCST i.e. that the entity concerned is "also a member of CDCC". In the first place it is not clear whether this means full membership or associate membership. Secondly, CDCC like CCST is an autonomous subsidiary organ of ECLAC and it is the practice of the latter which is the parent organ that should primarily guide the procedures of CCST in matters relating to membership and associate membership. In our view, it is important that decisions of CCST concerning membership are consistent with the rules and practices of ECLAC and also that in order to be eligible for membership or associate membership in CCST a country or other entity must be located within the geographical scope of CCST i.e. the Caribbean region. We do not believe, however, that there is any compelling reason for the further requirement that the country or entity concerned be also a member or associate member of CDCC. Such a requirement would add an unnecessary element of rigidity which would limit the flexibility of the CCST and of potential applicants. For these reasons we believe that a more appropriate interpretation of the first sentence of the new second paragraph of Article 4 of the CCST Statutes is that the Council may admit as an associate member of CCST any entity that is: (a) an associate member of ECLAC; and (b) within the Caribbean region. At the same time we wish to make it clear that the Council's interpretation does not give rise to legal objections.

4. Under the second sentence of the proposed second paragraph of Article 4 associate members of CCST are entitled (i.e. they have a right) to participate fully without the right to vote in the Council and in its subsidiary bodies on which all full members are represented (for instance, any committee of the Whole established by the Council). Under this sentence associate members would not have an absolute right to participate in subsidiary bodies of limited membership but this does not necessarily mean that they may not be permitted to do so if the Council or, in the absence of guidelines from the parent organ, if the subsidiary body concerned itself so decides. The interpretation reflected in the Minutes of the Third Plenary

Session of CCST (CDCC/CCST/83/20, paragraph 12 (iii) would not permit such participation and in our view this would be unnecessarily restrictive and also a departure from the practice usually followed in United Nations organs.

5. If it is indeed the practice in ECLAC and in other regional inter-governmental organizations to permit representatives of associate members to serve as officers of subsidiary bodies of the Commission and of other regional intergovernmental organs with which they are associated then it would not be objectionable from a legal standpoint if the same practice were to be followed within the framework of CCST. It is suggested that you consult with the ECLAC Secretariat concerning the practice followed by the Commission in this regard".

At the Fifth CCST Executive Committee meeting held in March 1984, after a careful assessment of these comments it was concluded that there was a basic misconception on the part of the Office of the Legal Counsel with respect to the status of the CCST. The CCST is not a subsidiary body of any part of the United Nations System but is a totally autonomous body established by inter-governmental agreement and therefore not subject to rules and practices of the United Nations System. It therefore considered that while noting the advice of the Office of Legal Counsel of the United Nations, the Netherlands Antilles should be eligible to become a full member of the Caribbean Council for Science and Technology.

In view of the foregoing, the following resolution is proposed:

"Be it resolved that the Netherlands Antilles, being an Associate Member of the CDCC is eligible for the status of member of the CCST".

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