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ECONOMIC COMMISSION FOR LATIN AMERICA
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PARTICIPATION IN THE
CARIBBEAN DEVELOPMENT AND
CO-OPERATION COMMITTEE
- JURIDICAL ASPECTS -

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FOREWORD

This paper provides a review of the background to participation in the Caribbean Development and Co-operation Committee (CDCC). The observations contained herein are precisely based on those legislative instruments, from the establishment of the Committee through to its Seventh Session, that are concerned with attendance and participation at CDCC Sessions. These observations are offered with the intention of clarifying those judicial aspects that would be of concern to the Caribbean countries.

PARTICIPATION IN THE CDCC
- JURIDICAL ASPECTS -

Legislation and practice

The criteria for participation in the Caribbean Development and Co-operation Committee (CDCC) was indicated in the Economic Commission for Latin America (ECLA) resolution 358 (XVI), first operative paragraph, as:

"... the Governments of the countries within the areas of action of the ECLA Office in Port of Spain and the Governments of Cuba, Haiti and the Dominican Republic and other Caribbean countries as they achieve independence, to form a committee on development and co-operation..."

At the time of adoption of that resolution, May 1975, the countries in the areas of action of the ECLA Office in Port of Spain were those that constituted the Caribbean Community and Common Market, the Bahamas, Suriname and the Netherlands Antilles. The full text of the resolution is attached as Annex I.

It should be noted the resolution 358(XVI) did not explicitly indicate membership, or any other status for participants in the Committee.

The question of participation in CDCC meetings was discussed at the inaugural session of the Committee (Havana, 31 October to 4 November 1975), and the CDCC resolution 1(I) was adopted. This resolution, the text of which is attached as Annex II, in its first operative paragraph, invited:

"... the Associated Members and Observers present at the first session in Havana - Belize, the West Indies Associated States, and the Netherlands Antilles - to attend all future sessions and meetings of the Committee."

This was the first definitive indication of differentiation in status of countries participating in the CDCC. It is therefore worth noting that the countries which participated at the inaugural session were

listed at Annex 1 of the report. (document E/CEPAL/1010: E/CEPAL/CDCC/8/Rev.1) as follows:

1. Member Countries of the Commission

"Commonwealth of the Bahamas, Cuba, Grenada, Guyana, Haiti, Jamaica, Dominican Republic, Trinidad and Tobago"

2. Associate Members

Belize, West Indies Associated States

3. Observers

Netherlands Antilles.

This suggests that the status of Membership in ECLA or Associate Membership in ECLA was carried over to the CDCC, except in the case of the Netherlands Antilles, which participates as an integral part of the Netherlands delegation at ECLA sessions.

Consistent with the provision concerning participation on the achieving of independence prescribed in the ECLA resolution 358(XVI), Suriname took its seat as a "Member state of the Committee" at the second CDCC session. It should be noted, too, that the participants' list at the Second Session categorized Belize and the West Indies Associated States as "Associate members of the Commission". The categorization that emerged from the Second Session was:

- Member States of the Committee
- Associate Members of the Commission
- Observer (Netherlands Antilles),

in conformity with CDCC Resolution 1(I), which remained unchanged through to the Fifth Session. At the Sixth Session, Belize moved to Member State of the Committee and the Netherlands Antilles moved to the category - Associate Member.

In the meanwhile, the number of "Member States of the Committee" expanded as Antigua and Barbuda, Dominica, St. Lucia, St. Vincent, and the Grenadines, took their seats individually in CDCC, after achieving independence and assuming membership in the United Nations and also in

ECLA. The independent participation of these countries leaves St. Kitts-Nevis and Montserrat as the two countries comprising the group "West Indies Associated States", now superseded by the Organization of Eastern Caribbean States (OECS). Formerly, all these countries had presented themselves as a group under the designation - "West Indies Associated States"; but they could have exercised the other option of being seated individually as Associate Members of ECLA if they had so chosen.

This aspect was covered in the paper "Review of Membership Status of Eastern Caribbean Countries in the Economic Commission for Latin America".

The current situation is that there has been no change in the totality of countries specified in the first operative paragraph of ECLA resolution 358(XVI). All the countries are now within the two categories "Members of the Committee" and "Associate Members of ECLA" shown in the lists of participants at CDCC sessions. Against this background, an important aspect of classification arises with CDCC resolution 8(VI) which, in its operative part, welcomed the Netherlands Antilles as Associate Member of the CDCC. In this regard, the purpose and effect of CDCC resolution 8(VI) was to transform the categorization of the Netherlands Antilles from Observer to Associate Member. This resolution which distinguished between "Associate Member of ECLA" and "Associate Member of CDCC", is of significance. It may be also of significance that in its second preambular paragraph full quotation is given to the text of the first operative paragraph of CDCC resolution 1(I), thus restating the Associate Members and Observers invited to attend CDCC sessions. The full text of the resolution 8(VI) is attached at Annex III.

Concerning accession to participation in CDCC, no modification has been made to the criteria "... and other Caribbean countries as they achieve independence ...". Neither in the ECLA resolution 358(XVI), nor in the CDCC resolution 1(I), was there provision for increase of participation by any other means.

A further point that should be noted is that CDCC resolution 1(I) also provided another avenue for some other countries to participate

in CDCC's activities at the level of specialized meetings. This is contained in the provision of operative paragraph two:

"... that when approving its programme of specialized meetings, or calling such specialized meeting, it will determine what other Caribbean states coming within the spheres of activity of the ECLA offices in Mexico and Bogotá should be invited to attend as observers."

Precedents and Procedure

At its Fifth Session, the Committee had before it an application from the British Virgin Islands for Observer Status to the CDCC. The application was considered along with the texts of ECLA resolution 358(XVI) and CDCC resolution 1(I). The Committee decided the question was of importance, and would require discussions at national levels, and that the matter be referred to the respective governments to be reverted to at a subsequent CDCC Session.^{1/} It was again considered at the Sixth and Seventh Sessions of the CDCC, the decision at the latter Session being that "the matter be discussed by the national legal authorities within the subregion and that no positive action be taken on the matter until those authorities had considered the issue."^{2/}

Quite separately, it is reported that both the British Virgin Islands (BVI) and the American Virgin Islands (AVI) are likely to apply for Associate Membership of ECLA. It would seem that both the AVI and BVI are interested in CDCC participation, in which case, it is relevant to consider what implication if any, there may be for CDCC.

^{1/} E/CEPAL/CDCC/68/Rev.2 "Report of the Fifth Session of CDCC" para. 196.

^{2/} E/CEPAL/CDCC/99 "Report of the Seventh Session of CDCC."

Neither the American Virgin Islands nor the British Virgin Islands fall within the resolution 358(XVI) group. Obviously, the qualification for membership in CDCC on "achieving independence" would not be met by either the American Virgin Islands or the British Virgin Islands.

A question that may be posed is whether as Associate Members of ECLA, they also would become Associate Members of CDCC. In fact, there is no provision either in ECLA, or in CDCC that on attainment of Associate Membership of ECLA, a country would automatically become an Associate Member of CDCC. Paragraph 3(c) of ECLA's Terms of Reference contains the provision that:

"Representatives of associate members shall be eligible to be appointed as members of any committee or other subordinate body which may be set up by the Commission, and shall be eligible to hold Office in such body".

This provision indicates an eligibility, not an automaticity.

Taking the ECLA Provision together with the decisions at the Fifth and Seventh Sessions of the CDCC, the indications are that participation in CDCC, outside of the "achieving independence" qualification, is dependent on the outcome of the discussions by the national legal authorities and specific decision in the CDCC at a subsequent session. Further, it does seem evident from the precedents of CDCC resolution 1(I) and resolution 8(VI), that the CDCC members would follow a procedure of adopting a resolution inviting specified Caribbean countries' Associate Member/s of ECLA to participate in CDCC, should that be their decision.

RESOLUTION ADOPTED BY THE ECONOMIC COMMISSION FOR LATIN AMERICA
AT ITS SIXTEENTH SESSION

358 (XVI) ESTABLISHMENT OF A CARIBBEAN DEVELOPMENT AND
CO-OPERATION COMMITTEE

The Economic Commission for Latin America,

Recognizing that special attention must be paid to the needs of the Caribbean in the light of their special historical, geographical and cultural identity;

Recognizing that these countries have inherited similar economic structures and problems;

Stressing the importance of paying particular attention to the needs of the less developed countries of the region;

Reaffirming the importance of economic co-operation and integration as one of the means to achieve economic and social progress in the area;

Recalling resolutions 288 (XIII) of 19 April 1969, 305 (XIV) of 6 May 1971 and 331 (XV) of 30 March 1973 concerning the sub-regional office of ECLA in Port of Spain;

Reaffirming the need to maintain and strengthen Latin American co-ordination and solidarity;

Considering that the achievement of the aspirations of the countries of the Caribbean, within the framework of Latin American co-operation, can make a positive contribution to the economic development of Latin America;

1. Invites the Governments of the countries within the areas of action of the ECLA Office in Port of Spain and the Governments of Cuba, Haiti and the Dominican Republic and other Caribbean countries

as they achieve independence, to form a committee on development and co-operation, composed of Ministers of Economic Affairs or persons appointed by them, to act as a co-ordinating body for activities relating to development and co-operation and as a consultative organ of the Executive Secretary;

2. Requests the Executive Secretary of ECLA to co-operate with the Governments concerned on matters within his competence, of concern to these countries.

3. Requests the Executive Secretary to undertake studies and promote initiatives designed to strengthen co-operation between the other countries' members of ECLA and integration groupings of countries of the Latin American region with the committee referred to in paragraph 1, particularly those countries within the area of action of the ECLA offices in Mexico and Bogotá.

4. Invites the Secretary-General of the United Nations, as well as the Administrator of the United Nations Development Programme, to bear in mind the additional responsibilities assigned to the subregional office in Port of Spain and the projects linked to the work of the Committee and to action referred to in paragraph 3.

13 May 1975

RESOLUTION ADOPTED BY THE COMMITTEE
AT ITS FIRST SESSION

1 (I) PARTICIPATION IN MEETINGS OF THE CARIBBEAN DEVELOPMENT
AND CO-OPERATION COMMITTEE

The Caribbean Development and Co-operation Committee:

Recalling that ECLA resolution 358 (XVI) requested the Executive Secretary to undertake studies and promote initiatives designed to strengthen the co-operation of the other Member States of ECLA and Latin American integration groupings with the Committee;

Stressing that the aforementioned resolution emphasized that such studies should be directed especially toward those countries within the spheres of action of the ECLA offices in Mexico and Bogotá;

1. Invites the Associated Members and Observers present at at the first session in Havana - Belize, the West Indies Associated States and the Netherlands Antilles - to attend all future sessions and meetings of the Committee;

2. Decides that when approving its programme of specialized meetings or calling any such specialized meeting, it will determine what other Caribbean States coming within the spheres of activity of the ECLA offices in Mexico and Bogotá should be invited to attend as observers.

4 November 1975

ANNEX 3

RESOLUTION ADOPTED BY THE COMMITTEE AT ITS SIXTH SESSION

WELCOME TO NETHERLANDS ANTILLES AS ASSOCIATE MEMBER

The Caribbean Development and Co-operation Committee,

Recalling CEPAL resolution 358(XVI) which invited the Governments of the Caribbean to establish the Committee so as to promote and strengthen intra-Caribbean co-operation and co-operation with the other member states of CEPAL and Latin American integration groups,

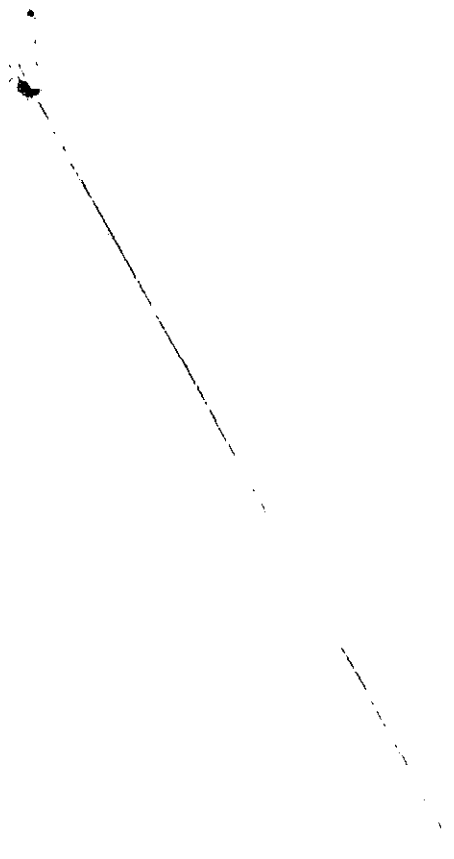
Bearing in mind CDCC resolution 1(I) on participation in the Caribbean Development and Co-operation Committee, which invited the associate members and observers present at the first session in Havana (Belize, the West Indies Associated States and the Netherlands Antilles) to attend all future sessions and meetings of the Committee,

Noting with appreciation the active participation of the Netherlands Antilles as an observer in the meetings of the CDCC,

1. Takes note of CEPAL resolution 445(XIX) admitting the Netherlands Antilles as Associate Member of CEPAL;
2. Welcomes the Netherlands Antilles as an Associate Member of the Caribbean Development and Co-operation Committee and looks forward to the further strengthening of its participation within the mechanisms established for co-operation.

4 February 1982

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