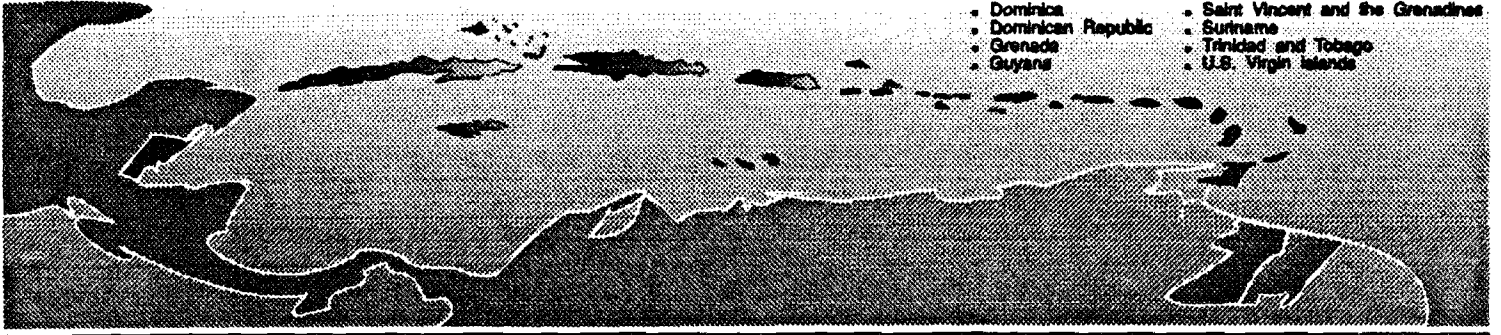


C.2



UN ECLAC/CDCC

- Antigua and Barbuda
- Aruba
- Bahamas
- Barbados
- Belize
- Br. Virgin Islands
- Cuba
- Dominica
- Dominican Republic
- Grenada
- Guyana
- Haiti
- Jamaica
- Montserrat
- Netherlands Antilles
- Puerto Rico
- Saint Kitts and Nevis
- Saint Lucia
- Saint Vincent and the Grenadines
- Suriname
- Trinidad and Tobago
- U.S. Virgin Islands



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OFFSHORE FINANCIAL CENTRES IN THE CARIBBEAN

30 JUN 1995



UNITED NATIONS  
 ECONOMIC COMMISSION FOR LATIN AMERICA AND THE CARIBBEAN  
 Subregional Headquarters for the Caribbean  
 CARIBBEAN DEVELOPMENT AND COOPERATION COMMITTEE

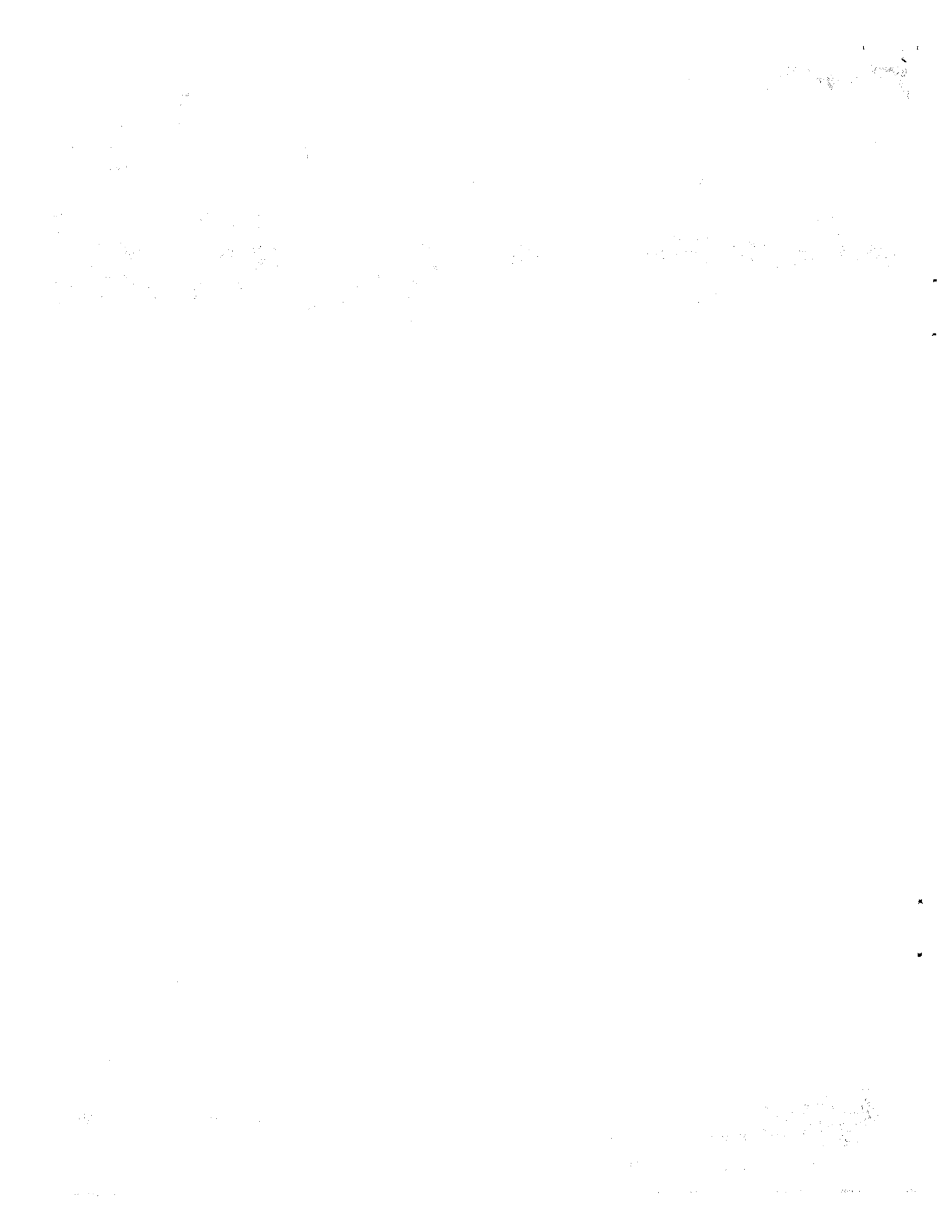


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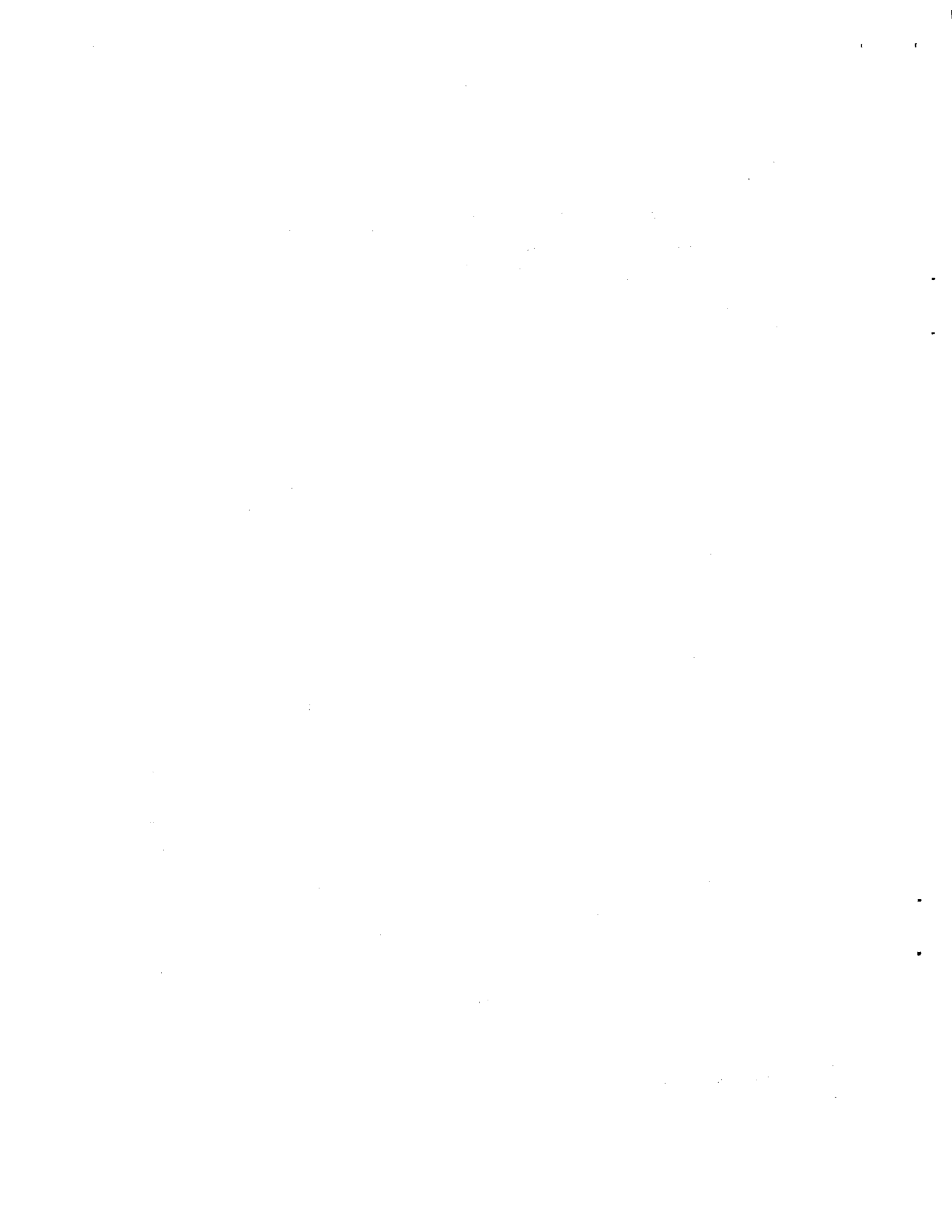


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## OFFSHORE FINANCIAL CENTRES IN THE CARIBBEAN

### 1.0. Introduction

Offshore financing is a concept which is poorly understood by the general reader. Several Caribbean countries have considered or are considering the establishment of offshore activities. This paper aims to clarify the concept of the offshore industry to make it more accessible to a wider public and to contribute to national discussion and policy-making.

Following a definition and a brief historical perspective, the basic services provided by these centres are briefly described. An outline of the perceived benefits and costs to the host countries and the offshore companies is also provided. This is supplemented by national data, relating to the number of registered companies, government revenue and employment in the main Caribbean offshore centres. Unfortunately, it is difficult to obtain extensive data on all these issues and not all figures can be awarded equal accuracy, due to the uneven national regulation of the industry. Two case studies on Barbados and the Netherlands Antilles elaborate the developments in these jurisdictions. The paper concludes with comments on a possible future contribution of the offshore financial centre to national development.

### 2.0. Methodology and response

Data from Barbados and the Netherlands Antilles were obtained through interviews with representatives from the Central Banks, Governments, commercial banks, accounting, notary and law firms, a consultancy firm, an offshore sector interest group and a data processing company. Data from 11 other Caribbean countries with an offshore financial sector, were requested by means of an inquiry. No response was received from Antigua and Barbuda and the US Virgin Islands. Responses of the other nine countries are summarized in various tables and in section 9 of this paper. Where this was considered useful, information received has been supplemented by information distilled from the literature, as indicated in the bibliography.

### 3.0. Definition

Offshore financial centres cover three classes of jurisdiction (Ginsberg, 1994):

- (a) Countries where there are no relevant taxes (tax paradise);
- (b) Countries where taxes are only levied on internal taxable events, or not at all, or at very low rates, on profits from foreign sources (tax shelters);
- (c) Countries which grant special tax privileges to certain types of companies or operations.

The main objective of companies and individuals using the services of these centres is either to avoid taxes and exchange controls or to protect assets from confiscation and expropriation.

### 4.0. Historical perspective

The emergence of offshore financial centres may be attributed to a number of global developments that took place after the Second World War. The United States dollar became accepted as the new key currency in the international financial world. Balance-of-payments problems in the United Kingdom in 1957,

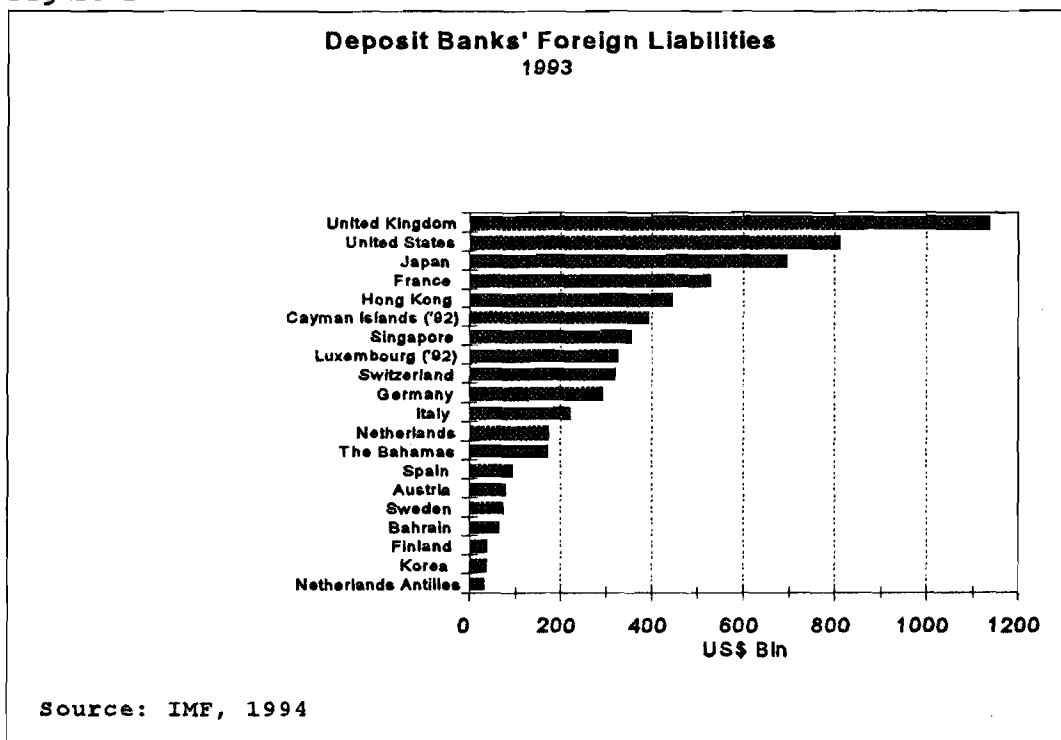
brought tight controls on the pound sterling and a greater demand for United States dollar financing, causing the British banks to lend and invest United States dollar deposits in the Euro-market. The United States Government on the other hand, introduced regulations restricting foreign lending by their banks and, hence, stimulated the expansion of United States bank branches in London, the traditional financial centre. These branches were used to finance the growing number of international transactions of the transnationals in the 1950s and 1960s. At this time the divergence of interests between national governments and transnational companies became more evident. According to Yassukovich (1974), this conflict of interest and the expansion of transnational economic activity were the main factors leading to the growth of offshore financing and the emergence of offshore banking centres. For the development of the Caribbean financial centres, four advantages were of importance as compared to London: the relatively low costs of establishing a branch, the low taxes, the more liberal legal provisions for registration and licensing and the location in the same time zone as New York.

#### 4.1. Trends in the Caribbean offshore centres

Offshore banking was thus the beginning of the offshore financial industry in the Caribbean. Its popularity, from a global perspective, can be illustrated by comparing the foreign liabilities deposited with offshore banks in the various Caribbean centres to those placed at the other main financial centres. This figure gives an idea of the funds that were passing through the financial centres and not merely deposits in the sense of savings.

Among the 20 countries with the largest amount of foreign liabilities one finds six offshore banking centres, of which three are Caribbean countries (see Fig 1). The banks in the Cayman Islands reported approximately US\$389 billion or 5.6 per cent of global foreign liabilities, which were estimated at US\$6,992

Figure 1





billion in 1993. In that same year, the Bahamas reported US\$168 billion (2.4 per cent) and the Netherlands Antilles US\$27 billion (0.4 per cent) of global foreign deposits. The aggregate amount deposited in these three small Caribbean countries was roughly half of the US\$1,134 billion, placed in the United Kingdom.

These three Caribbean countries, especially the Cayman Islands, experienced a rapid growth in bank deposits from US\$83 billion in 1980 to US\$389 billion in 1992, which increased their market share from 4.4 per cent to 5.6 per cent (see Table I). Although the Netherlands Antilles experienced a growth in nominal terms, the market share remained fairly stable, at around 0.3 per cent. The Bahamas lost market share from 4.6 per cent in 1985 to 2.4 per cent in 1993, with the foreign liabilities in the Bahamas peaking at US\$188 billion in 1991. In most offshore centres the investment of offshore funds in the host economy is (still) strictly prohibited. The offshore banks' foreign assets show, therefore, a similar growth or decline pattern as their liabilities. (See Figures 2 to 7).

**Table I**  
**Foreign liabilities of deposit banks in selected countries (US\$ bln)**

	1980	1985	1990	1991	1992	1993
Bahamas	....	141.5	182.0	188.1	172.5	167.7
Cayman Islands	83.4	162.2	401.0	390.5	388.7	....
Netherlands Antilles	7.1	6.1	15.8	20.1	22.4	27.2
Bahrain	31.0	48.3	57.7	51.3	67.5	58.4
Hong Kong	32.6	83.3	402.7	431.6	427.8	438.4
Panama	34.6	32.5	....	....	....	....
Singapore	43.5	129.7	354.9	329.0	328.0	353.5
Japan	80.2	179.3	958.5	845.7	708.6	688.4
Luxembourg	98.5	117.2	308.1	309.7	320.6	....
Switzerland	108.6	163.8	353.0	345.5	330.2	311.8
United Kingdom	377.7	625.7	1,200.7	1,114.5	1,117.0	1,134.1
United States	151.5	381.3	733.3	720.5	755.5	804.1
Sub-total	1,048.6	2,070.9	4,967.6	4,746.4	4,638.7	3,983.7
World-total	1,901.2	3,056.6	7,138.8	7,000.4	6,934.1	6,991.5

Source: IMF statistics, 1994.

"...." Indicates no statistical data available.

Several Caribbean countries have since started to adopt new legislation in order to attract offshore business and benefit from the revenue and to increase economic activity and employment which it is assumed to provide. But as in any business, the size of the market is eventually determined by demand. As more players entered the market, competition got harsher, and the prices for the services provided (licensing and registration fees, among others) declined. Innovations and product differentiation, therefore, became crucial for the centres to retain their market share. Beyond banks and banking, other types of companies and transactions were developed to facilitate offshore finance. The need for innovation was further enlarged by the footloose nature of the international companies that could switch their domicile in a matter of days to another country. An additional factor for the centres to consider was the constantly changing legal environment in the high tax countries, intended to limit tax evasion and illicit transactions.

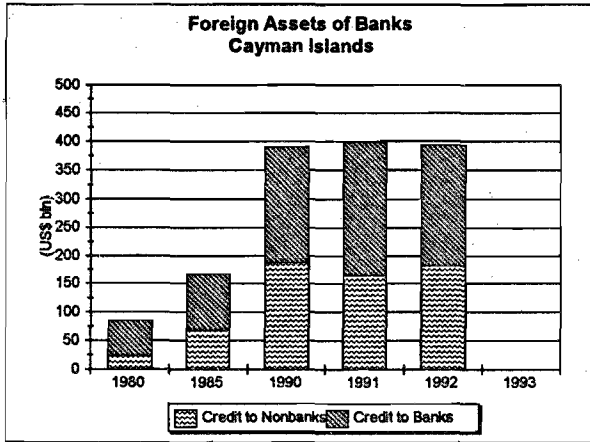


Figure 2

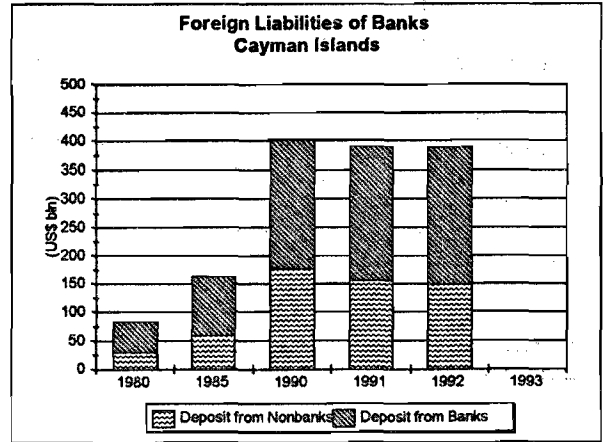


Figure 3

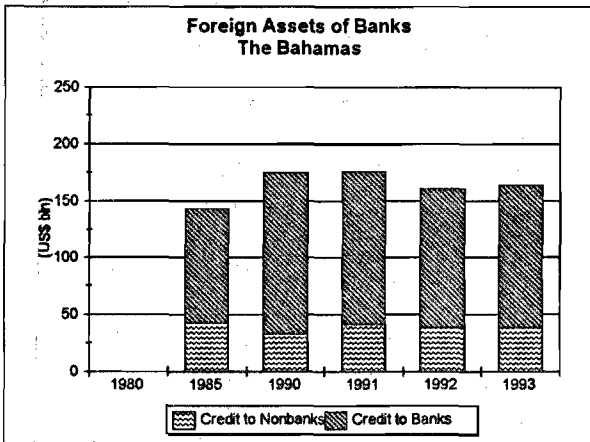


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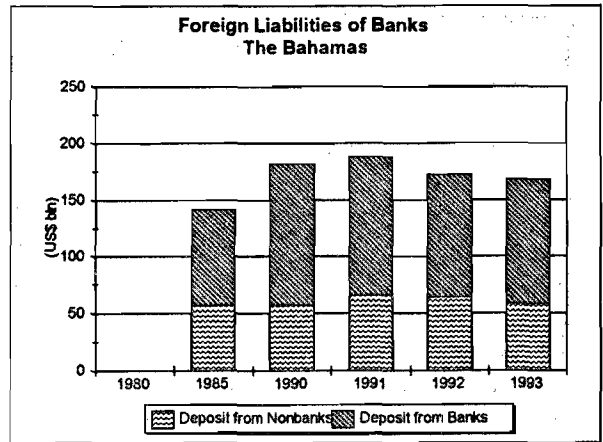


Figure 5

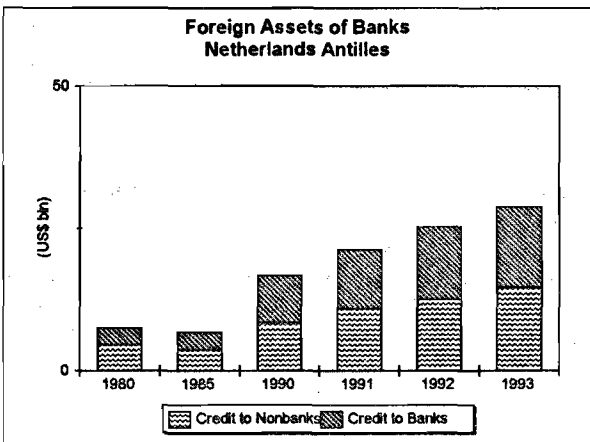


Figure 6

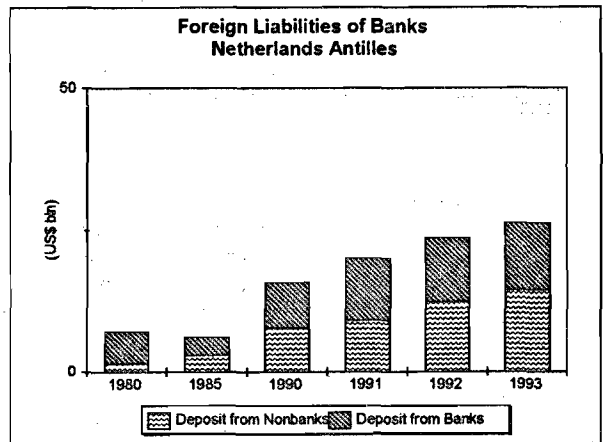


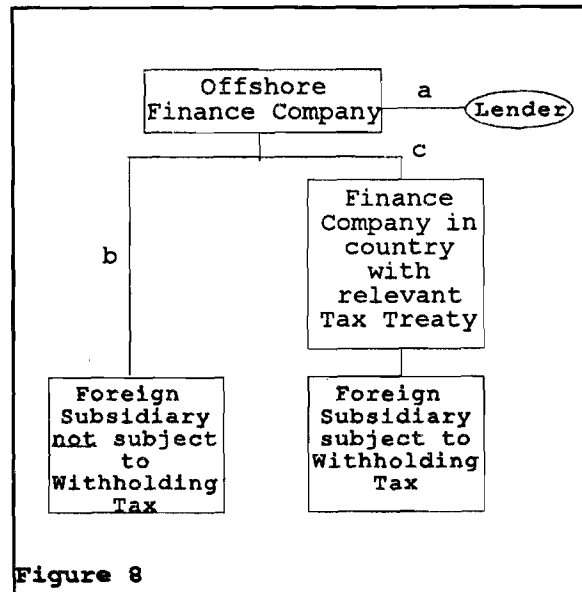
Figure 7

## 5.0. Typical institutions and transactions in offshore centres

### 5.1 Banking and finance companies

Private banking comprises a large share of the offshore banking industry, and offers all the customary banking services. Its popularity is due to confidentiality and the reputation of particular institutions for providing good expected returns. Customers can allocate their funds between time deposits, stocks, foreign currencies, government bonds and real estate, spread all over the globe. Other services offered by offshore banks include letters of credit, foreign exchange transactions, or the booking of loans and swaps. Offshore banks often have other offshore companies as their customers.

Finance companies are often established offshore in order to raise finance for a conglomerate and/or to lend to the group's companies (see Fig 8). The interest payments to the lender (a) would be free of withholding tax<sup>2</sup> deductions, which implies cheaper credit for the offshore finance company. In the onlending to foreign subsidiaries, two cases can be distinguished: either the borrowing subsidiary is not subject to withholding tax (b), or it is subject to withholding tax (c). In case (b) the interest payments to the finance company, effectively mean a transfer of profit from the high tax country to the low tax offshore jurisdiction. In case (c), however, the withholding tax diminishes the interest payment to the offshore finance company. Corporations often circumvent this tax inconvenience by interposing a second finance company in a country that has a tax treaty with the country where the subsidiary is located. In this way, the company can substantially alleviate tax levied on foreign operations.



A special form of finance company is the conduit finance company that serves mainly as a window for loans. It is typically located in a country with an extensive network of favourable double tax treaties and a corporate tax law that makes interest expenses tax deductible.

### 5.2. Captive insurance and Reinsurance

Captive insurance companies are wholly or jointly-owned foreign insurance subsidiaries, mostly belonging to large corporations. They are used to insure the parent against unusual or expensive risks, at rates more attractive than can be offered by the insurance industry in the home country. The accumulated premiums of the international group increase their liquidity, which in turn can be used for investment by the group companies and for reinsurance of the risks in the market.

<sup>2</sup>Withholding tax is the tax withheld by the source country on income transfers (interest, royalty payments, dividend) to third countries.

Reinsurance is an instrument, often used by primary insurance underwriters, to reinsure their risk against natural disasters such as hurricanes, floods and earthquakes.

### 5.3 Holding companies

Holding companies are incorporated offshore to hold foreign subsidiaries and often to serve as a springboard for the parent to a country with an extensive tax treaty network (Fig. 9). The benefits for the holding company are derived from the low tax in the host country, and from the tax exemptions and reductions granted under tax treaties between the intermediary company's country and the resident countries of the foreign subsidiaries. Furthermore, if income is accrued in the offshore holding company, instead of being transferred to the parent's home country where it would be taxable, these funds can be used to reinvest before taxes. This effectively means a tax deferral until payment to the parent.

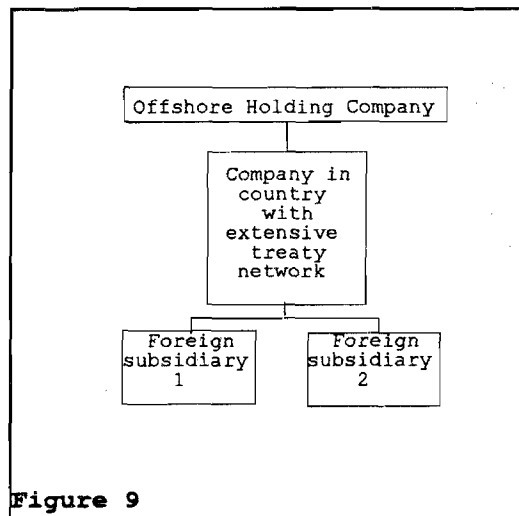


Figure 9

Holding companies can also be used to book real estate investments, providing a degree of anonymity for the investor and limiting eventual capital gains tax liability.

### 5.4. International Business Companies (IBCs)

IBCs are established on the same rationale as the traditional offshore financial institutions. That is, they are subject to reduced or zero tax rates, and they are not allowed to conduct business with the domestic economy of the host country. Neither are they allowed to encroach on the domain of the traditional offshore financial institutions such as trust, banking, insurance, reinsurance or company formation business. Typical activities carried out by IBCs in Barbados, for example, are: trading of goods, securities or commodities; financing; software development, licensing and marketing; publishing; data processing; financing and sale of equipment; intellectual property licensing and sale; processing of insurance claims; investments holding; acquisition and refining of primary metal products; container leasing; manufacturing electronics; and provision of electrical services.

### 5.5. Foreign Sales Corporations (FSCs)

Foreign Sales Corporations can only be established by United States companies, as they should first be designated as such, under the laws of the United States of America. The principal objective of these corporations is to engage in foreign trade transactions and thus boost the exports of the United States of America. After obtaining the FSC status in the United States, the company can apply for a licence in one of the 27 countries which qualify under United States criteria to host a FSC. In the Caribbean subregion, Barbados, Bermuda and the US Virgin Islands currently qualify and host FSCs.

#### 5.6. Licensing and patent holding

An offshore licensing company can be set up to license patent rights to its foreign parent or subsidiaries. In paying patent royalties to the patent-owning company, profits are effectively shifted from this foreign company to the offshore company, which pays little or no tax on the royalties received.

#### 5.7. Mutual funds

A group of investors can pool their capital in one fund, a mutual fund, which in turn can be invested in a wide range of investment products, such as equity, bonds, options, real estate, convertible debt, venture capital, real estate mortgage backed securities and so on. The value of the fund is determined by the market value of the underlying assets. The investor in the mutual fund is actually a stockholder in the fund. Mutual funds can be either open or closed-end funds. In a closed end fund the amount of share capital is fixed for the lifespan of the fund. In the case of an open-end mutual fund, shares can be sold and bought back without restrictions. Taxation of mutual funds varies per country. It can be based on the net asset value of the fund, the growth in net assets, or it can be a fixed annual charge. In some offshore centres, mutual funds are tax exempted.

#### 5.8. Ship registry

Traditionally, Panama and Liberia have been the favoured places to register ships. The advantages of registration in offshore havens are low fees, low taxes, less restrictive regulations and the ability to hire crew at cheaper rates and without nationality limitations. Newer jurisdictions offer additional advantages, such as the ability to fly the British or Dutch flag and receive protection from the Royal Navy, worldwide. Insurance premiums for ships flying such flags are reportedly significantly lower than the premiums payable in other offshore jurisdictions.

A new development is the possibility to register bareboat charters offshore. Basically this means that a ship can be registered in the offshore centre of which the charterer is a national. And this implies that a ship is governed by the laws of the offshore centre and by the maritime treaties which that centre has contracted.

#### 5.9. Trusts

The essence of a trust settlement is the relationship between the settlor (the person who creates the settlement) and the trustee, in favour of one or more beneficiaries. The settlor donates part of his assets to the trustee, who acquires full legal ownership. The trustee is obliged to hold the assets in accordance with specific directions contained in the settlement trust deed, and must act in the interest of the beneficiaries, one of whom may be the settlor. In other words, there is a separation of legal and beneficial ownership. Under a discretionary trust, which is often used in tax planning, the trustee is generally given wide discretionary powers over the capital and income of the trust as to when, how much, and to which beneficiary the capital and/or income of the fund should be distributed. As such, a beneficiary will not be considered to have a taxable income until such time that he receives a distribution. Trusts can be used by both individuals and companies, and are quite flexible in their arrangements. The trust is a construct of the English legal system and, therefore, is often more applicable in jurisdictions where the English legal

system has been followed, such as most Commonwealth countries and the United States.

## 6.0. Benefits to the host country

### 6.1. Direct government revenue

The offshore centre's government generates its major direct income through registration and licence fees, work permit charges and corporation tax, if levied. In some countries, stamp duty on issued bonds may also play an important role.

While the fees and charges might be negligible for the foreign company compared to the tax savings it could obtain for a small island Government the income collected could be quite significant.

**Table II**

**Estimated annual direct Government revenues from the offshore sector**

	Revenue Source	Year	Revenue in US\$ mln	% of Current Government Revenue
Anguilla	Incorporation & annual fee		....	....
The Bahamas	Licence fee, work permit	1994	16.0	3%
Barbados	Profit tax, fees	1993	9.7	2%
Belize	Registration & licence fee		....	....
Bermuda	Filing, appl. & reg. fee and annual & land tax	1992	23.6	7%
Br Virgin Isl	Incorporation & annual fee	1994	38.0	63%
Cayman Islands	Licence fee	1994	26.0	16%
Montserrat	Registration & licence fee	1993	0.3	2%
Neth. Antilles	Profit tax	1993	111.7	28%
Nevis	Incorporation & annual fee	1993	0.4	1%
Turks & Caicos	Fees	1994	2.6	10%

Source: National data and ECLAC estimates.

"...." Indicates no data available.

### 6.2. Indirect contributions

Offshore companies, whether physically present or not, need to purchase certain goods and services from the local markets. These include services provided by accountants, bankers, insurers and lawyers, or by the utility companies, telecommunication companies, hotels and caterers, real estate agents, travel agencies, maintenance and cleaning companies.

Table III

Estimated direct employment in the Caribbean offshore sector (by year of most recent available data)

	Year	Employees
The Bahamas	1985	3035
Barbados	1994	2000
Bermuda	1992	2006
Br. Virgin Isl.	1994	400
Cayman Islands	1994	1500
Montserrat	1994	4
Neth. Antilles	1994	3000
Nevis	1994	30

Source: National data

in the service sector, and the import of up-to-date knowledge which can be transferred to the local people, the gap in incomes can cause discontent with the native population. To avoid this last problem, the host country could encourage the offshore companies to hire local people for middle and top management positions by providing good education, thus encouraging a well-trained and motivated workforce.

In cases where the offshore company has only a shell of an office and no further physical presence, the employment generated will be limited to the work to be done by the local administrators of the company.

#### 7.0. Costs to the host country

Carlene Francis (1987), made a distinction between direct and indirect costs incurred by the host country. As direct costs, she listed those expenditures that were made in order to establish reliable telecommunications and infrastructure and to provide the country with a good education system. Other direct costs comprise the investments made to institute a competent licensing, regulatory and supervisory body, necessary to preserve the good reputation of the centre and discourage unlawful operations, like money laundering. Indirect costs on the other hand, might arise from decreased monetary policy independence and increased tax evasion in the host country.

#### 7.1. Money laundering

The Vienna Convention 1988, called for stronger measures to prevent money laundering. More concretely, this led to the establishment of a task force, which had the objective of informing countries about the techniques used in money laundering, and offering guidance on how to prevent illicit transactions. In addition, it examined countries' laws and procedures to evaluate their ability to filter out money laundering transactions. In 1992, the Kingston Declaration on Money Laundering was signed by 26 countries in the wider Caribbean (the Declaration was not signed by Barbados, Belize, Cuba, Haiti, Honduras, Nicaragua, Puerto Rico and the US Virgin Islands). As a result of this Declaration, the Caribbean Financial Action Task Force (CFATF) came into being in 1994, and was

Most of these goods and services are bought in local currency and are subject to different taxes applicable to local companies and individuals. Since offshore companies, by definition, do not have local currency income, local expenses have to be met through inflows of foreign currency.

Employment opportunities may significantly increase with the establishment of an offshore sector. The greatest impact is to be expected where actual offices are established and the demand for employees can be satisfied by the local labour market. If this match is not found, however, the host country can expect an inflow of generally well-paid workers from abroad. Although this immigration may have positive side effects like a growth in ancillary jobs

Table IV

## Agreements signed to limit money laundering and tax evasion

	Mutual Legal Assistance Treaty with	Tax Information Exchange Agreement with USA
Anguilla	USA	No
The Bahamas	Canada, UK, USA	No
Barbados	--	Yes
Bermuda	USA	No
Br Virgin Islands	USA	No
Cayman Islands	USA	No
Montserrat	--	No
Netherlands Antilles	--	No
Nevis	--	No
Turks & Caicos	UK, USA	No

Source: National data.

--" Indicates no treaties signed.

located in Port-of-Spain. Presently it promotes self-assessment among its 26 member jurisdictions in order to increase awareness of money laundering vulnerability and draw up an inventory of the weak points in the existing systems and legislations. The next step is mutual assessment, to be conducted by the members themselves. In addition, the CFATF provides training and technical assistance to its members. The next ministerial meeting on money laundering is planned by the task force to be held in Port-of-Spain in 1995. Most traditional offshore centres have recognized the importance of preserving a good reputation and are adopting extensive measures to avoid abuse of their legislation.

#### 8.0. Benefits to the offshore companies

Companies that wish to set up an offshore subsidiary have an ample choice of centres spread all over the globe. These centres compete by offering various incentives to make the establishment of a company as attractive as possible. Features that are played off against each other include: tax and duty structure, stability and safety, confidentiality granted to registered companies and persons, regulations and costs involved with registration, restrictions on the nationality of shareholders and directors, infrastructure, geographic location, skills of the local workforce, flexibility in redomiciling companies and the access to benefits of tax treaties.

The redomiciliation feature is offered by different offshore centres to facilitate transfer of the companies' statutory seat to another country in case of unrest or amended tax regulations. They offer a minimum of red tape in the process of transfer to or from their jurisdiction, and the option to retain name as well as date of original incorporation.



### 8.1. Tax treaties

Tax treaties are generally made between two tax-levying countries, often to avoid double taxation of cross border income flows. Double taxation occurs if the source country deducts withholding tax on, for example, interest payments, while these same payments are taxed again as income in the receiving country. Withholding taxes are generally set between zero per cent and 40 per cent, differing per country. One of the traits of a treaty is often the provision of withholding tax exemption or reduction by the country where the income was generated. Some countries have established more tax treaties than others. The Netherlands, especially, has an extensive network with 47 treaties established.

The worldwide net of tax treaties and the significant benefits that could be obtained by international companies gave birth to the phenomenon of treaty shopping. The basic objectives are to obtain a reduction in taxation by the source country, a low or zero effective rate of tax in the payee treaty country, and a low or zero tax rate on payments from the payee treaty country to the actual income beneficiary.

Allegedly, treaty shopping has been conducted by transnational companies to take advantage of favourable tax treatment in doing business with the United States of America. In order to avoid the establishment of intermediate firms in third world countries solely for the purpose of treaty shopping, the Internal Revenue Service (IRS) of the United States, the body that also sets the withholding tax rates, has recently proposed new regulations related to this tax. These regulations should increase revenue for the IRS and encourage governments that have not negotiated tax treaties with the USA to do so.

**Table V**

**Tax Treaties in the Caribbean (for 11 selected countries)**

	Tax Treaties established (or being established) with
Anguilla	--
The Bahamas	--
Barbados	Canada, Finland, Norway, Sweden, Switzerland, UK, USA, (Argentina, Brazil, China, France, Germany, India, Mexico, South Africa, Venezuela)
Belize	UK
Bermuda	USA*
Br Virgin Isl.	Japan, Switzerland
Cayman Islands	--
Montserrat	--
Neth. Antilles	Netherlands, Norway, USA (withholding tax only)
Nevis	Denmark, New Zealand, Norway, Sweden, Switzerland, UK
Turks & Caicos	--

Source: National data / Ginsberg 1994.

\* Relates to the taxation of insurance enterprises and mutual assistance in tax matters.

--" Indicates no tax treaty signed or under negotiation.

## 9.0. A closer view at the Caribbean offshore centres and Bermuda

### 9.1. Anguilla

Anguilla passed a new package of financial services legislation in 1994 intended to stimulate activity in this sector. It included a modern Companies Ordinance, International Business Companies Ordinance, Company Managers Ordinance, Limited Duration Companies Ordinance, Partnership Ordinance, Limited Partnership Ordinance, Trust Ordinance, and a Fraudulent Disposition Ordinance. New insurance legislation is also being prepared. Although Anguilla is not a party to any tax treaties, it does have a Listed Country Status with Canada, which gives Canadian companies the opportunity to repatriate profits free of tax. By the end of November 1994, there were 3558 companies on the Companies Register, 75-80 per cent of which are offshore companies. There are two offshore banks and 17 insurance companies, of which one was a true captive insurance company. There are presently no trust companies or mutual funds operating in Anguilla, nor is Anguilla a ship registration jurisdiction. An estimate of employees working in the offshore sector is not available, but about 10 law firms are reportedly, to varying degrees, engaged in the offshore business. They, along with certain other firms, function as company formation agents and as company management firms.

### 9.2. The Bahamas

The Bahamas is one of the oldest offshore centres, and is considered an example for many other countries trying to set up an offshore financial centre. At 1 December 1994, there were 28,181 IBCs registered, which contributed US\$2.82 million to the government revenues derived primarily from licence fees and work permits. The number of banks and trust companies at the end of 1994 was 413, providing employment to 783 persons, and generating government revenues of US\$8.1 million (December 1993). The number of mutual funds established in the Bahamas, is estimated at 300, with a value of assets under management of several billion dollars. Furthermore, 30 captive insurance companies were incorporated by the end of 1994, paying licence fees and work permits to the government amounting to US\$75,000. The number of ships registered in the Bahamas in that year was approximately 1,500, contributing US\$5 million in license fees. Except for the number of people working in banks and trusts, there are no data available on employees working in the offshore sector.

The Bahamas is not a party to any tax treaties nor has it signed any Tax Information Exchange Agreements (TIEAs). However, the Bahamas has negotiated Mutual Legal Assistance Agreements with the United States in 1987, the United Kingdom in 1988 and Canada in 1990.

### 9.3. Belize

Belize introduced its legislation for ship registry, IBCs and trust companies in 1989, 1990 and 1992, respectively. It is in these areas that the main offshore activity takes place. At the end of 1994, approximately 1750 IBCs and 770 ships were registered in Belize. A detailed breakdown of companies in respect of banks, captive insurance, trust and mutual funds is not available. Incentives that are granted to attract companies are tax holidays, duty exemptions, and unrestricted repatriation of profits. To stimulate foreign investment in the country, Belize further permits the establishment of an IBC that may own property domestically and manage funds from Belizeans, a so-called Public Investment Company (PIC). While the PIC is exempted from local taxes for up to 30 years, any Belizean subsidiaries of the PIC are subject to a 25 per cent corporate tax rate compared to 35 per cent for other companies. It may further

issue shares and make loans to nationals without applying for exchange control authorization. An important requirement is that the PIC must be listed on a major stock exchange. Payments of dividends to its shareholders are tax exempted. By mid 1994, only two qualifying companies that were already incorporated in the country, had obtained the PIC status. Data on employment generation and Government's revenue are not available from the Belizean authorities.

#### 9.4. British Virgin Islands

In the British Virgin Islands over 100,000 companies have been registered since the creation of the International Business Act of 1984. Primarily as a result of the turmoil in Panama, thousands of companies incorporated in Panama fled to the British Virgin Islands. Most companies are used to hold assets, like investments, intellectual property and real estate, or to conduct business functions such as financing, consultancy, and international trade. In 1994 financial services contributed approximately 63 percent of the Government's revenue, while over \$38 million in annual corporate registration fees was generated. The offshore companies originate in the United States (75 per cent), in Latin America (10 per cent), Europe (8 per cent) and the Far East (7 per cent). The British Virgin Islands is aspiring to become the most flexible and innovative insurance centre in the Caribbean. The new insurance act incorporated innovations such as the most forms of reinsurance, captive insurance, accident and disability reinsurance, surety bonds and life insurance.

#### 9.5. Cayman Islands

The lack of a sufficiently skilled local workforce, reportedly led to an inflow of foreign professionals, limiting the benefits to the local workforce.

The number of exempted companies registered in the Cayman Islands was 18,952 by the end of 1994. There were 507 banks licenced, of which 224 also got a trust licence, bringing the total number of trust licencees to 277. In addition, there were 361 captive insurance companies registered, and 891 mutual funds, with an unknown amount of assets under management. The ship registry recorded 784 ships.

The employment in the offshore sector totalled 1,500 jobs, of which roughly 1,300 were in banking and 200 in the insurance industry. The Government generated revenues in the form of licence fees in the amount of US\$26 million. The contributors, in order of magnitude, were the exempted companies with US\$12.9 million, the banks and trust companies with US\$9.7 million, the insurance companies with US\$2.4 million, the mutual funds and its administrators with US\$0.8 million and the corporate management companies with US\$0.2 million.

The Cayman Islands and the United States signed a mutual legal assistance treaty which allows the United States Government to receive information on any United States-related transactions exceeding US\$10,000. The Cayman Islands did not sign a tax information exchange agreement.

Table VI. Estimated number of registered companies in selected offshore jurisdictions

	IBCs / Exempted Companies	Foreign Sales Companies	Offshore Banks	Trust Companies	(Captive) Insurance Companies	Ships Registered	Mutual Funds	Report Date
Anguilla	2,669	0	2	0	17	0	0	Nov '94
Bahamas	28,181	0	413 (a)	413 (a)	30	1,500	300	Dec '94
Barbados	1,486	1,173	25	39	232 (b)	33	....	Dec '94
Belize	1,750	0	....	....	....	770	....	Q4 '94
Bermuda	5,947	118	0	28	1,326	93	318	Q4 '94
Br Virgin Isl	100,000	0	<10	....	200-300	....	....	Q4 '94
Cayman Isl	18,952	0	507 (c)	277 (c)	361	784	891	Dec '94
Neth Antilles	22,000 (d)	0	56	39 (e)	29	200	450	Dec '93
Nevis	2,845	0	0	0 (f)	0	0	0	Oct '93
Turks & Caicos	9,376	0	7 (g)	13	1,600	150	0	Sep '94

Source: National data.

"...." Indicates no data available.

- (a): Refers to both Offshore Banks and/or Trust Companies.  
(b): Refers to both Exempt Insurance Co. and Exempt Insurance Management Co.  
(c): 224 Institutions have both a Banking and Trust Licence.  
(d): Offshore Naamloze Vennootschappen (N.V.).  
(e): Corporate Management Companies.  
(f): Trust Ordinance into effect as per May 1994.  
(g): Offshore and Domestic Banks.

#### 9.6. Montserrat

Montserrat, is one of the smallest centres in the Caribbean with 350 offshore companies registered in its jurisdiction. The revenue generated from this industry amounts to US\$255,000 in licence fees and US\$11,000 in registration fees. Montserrat is not a party to any tax treaty, tax information agreement, or mutual legal assistance treaty. The sector reportedly provided employment to four persons. New legislation to permit company managers to operate in Montserrat is being drafted.

#### 9.7. Nevis

Nevis, adopted the Business Corporation Act in 1984, paving the way for this island to become an offshore centre. At the end of October 1993, 2845 offshore companies were registered. As in the British Virgin Islands, many companies transferred from Panama, Costa Rica and Liberia, attracted by the island's comprehensive redomiciliation feature in the corporate statutes. The Trust Ordinance of Nevis came only into operation in May 1994. There is presently no offshore bank, (captive) insurance company, mutual fund or ship registration legislation in Nevis. Allegedly, steps are being taken to open an offshore shipping registry together with St. Kitts. Government revenues generated by the offshore sector were in excess of US\$400,000 in 1993. The number of people employed in this sector in Nevis and devoted exclusively to offshore matters amounted to approximately 30, excluding any tangentially involved persons, such as, for example, attorneys.

#### 9.8. Turks and Caicos

Turks and Caicos Islands, registered 9,376 offshore companies and 1,600 Captive Reinsurance Companies as of September 1994, making this country one of the world leaders in reinsurance business. Additionally, the country houses seven banks (both domestic and offshore), 13 trust companies and has about 150 ships registered. Due to the low incorporation fee and exemption of direct tax, this jurisdiction was quite popular in the 1980s. However, allegations of drug dealings, involving a minister of government, halted growth. Since then, a Mutual Legal Assistance Treaty has been signed with the United States and the United Kingdom, to prevent the strict confidentiality laws of the Turks and Caicos from covering up illicit transactions. The rebuilding of the island's credibility has had some success and licensing is reportedly on the increase again. The government fee revenue for the 1993/1994 financial year generated by financial services was approximately US\$2.6 million.

#### 9.9. Bermuda

Bermuda, the traditional centre for offshore insurance companies, registered 7,737 offshore companies at the end of September 1994, of which 1326 were insurance companies. The insurance sector experienced a significant growth in 1993, with gross and net written premiums increasing both by 18 per cent to US\$18 billion and US\$13.4 billion, respectively. Total assets increased by 19 per cent, to almost US\$70 billion, while capital and surplus reached US\$29 billion. Half the growth was due to the new property catastrophe reinsurance facilities on the island. The other half was a result of the continued expansion and strengthening of Bermuda's existing commercial insurers and reinsurers.

The island's register counted furthermore 318 mutual funds with total assets of at least US\$14 billion, 28 licensed trust companies and 118 Foreign

Sales Companies. The 5,947 remaining exempted companies conduct a wide range of activities, like investment holding (3,150 companies), provisional services for shipping companies (547 companies), trading, insurance brokerage or management and consultancy services. By the end of 1994, 93 commercial ships were registered in Bermuda, totalling 3.1 million gross tons.

The direct government revenue in 1992, was US\$2.2 million from filing, application and registration fees, US\$20.8 million from annual taxes and US\$0.6 million from land taxes, amounting to a total of US\$23.6 million. Of this total, US\$5 million came from insurance related companies. The offshore companies also contribute to the direct revenues of the public sector via a hospital levy and a pension deduction. These amounted to US\$7.2 million and US\$3.9 million, respectively.

The direct employment created by international businesses in 1992, was 2,006, of which approximately 700 were non-Bermudans. Secondary employment amounted to 2,811 persons, while for 5,250 additional persons income levels and hours of work were reportedly influenced by the tertiary effects of international company business activity. More than 50 per cent of the employment was generated in insurance-related business.

Bermuda has signed a tax treaty with the United States, relating to the taxation of insurance enterprises and mutual assistance in tax matters. No other tax information or mutual legal assistance treaties have been signed.

In 1990, Bermuda eased incorporation procedures and abolished stamp duties for international companies. This measure attracted a large number of companies from the Hong Kong stock exchange, which due to the uncertain future of that country, set up their administrative office in Bermuda. In addition, there was an increase in registrations of mutual funds, which was probably related to the marketability of Bermuda-based funds in the United Kingdom, due to the designated territory status of Bermuda under the United Kingdom's Financial Services Act.

Two new areas, on which Bermuda is allegedly focusing attention, are the establishment of foreign sales corporations dedicated to aircraft leasing, and the further development of its trust business. To stimulate the latter, a new Trust Companies Act was passed in 1991.

The Government is further planning to amend the insurance legislation to produce a more rigorous regulatory climate for commercial insurers. This measure will not materially impact the bulk of Bermuda's pure captive insurance companies.

## 10.0. Two Caribbean offshore centres in more detail

### 10.1. Barbados

Barbados' offshore industry started in the 1960s with the introduction of fiscal incentives to attract light industry, such as assembly operations for the computer industry.

In order to diversify its economy, Barbados adopted legislation to permit the establishment of International Business Companies in 1965. But it was only in the early 1980s, after new legislation was introduced allowing the registration of different types of International Business and Financial Services Companies, that the offshore industry really began to develop. Since then, the International Business Companies Act, the Foreign Sales Corporation Act (FSC), the Exempt Insurance Act, the Offshore Banking Act, the Trustee Act, the Shipping Act and the Shipping Incentives Act have been established. A recent amendment in the Foreign Sales Corporation Act, now allows FSCs to conduct business also within CARICOM, using preferential CARICOM rates. At the same time, FSCs shareholder requirements were eased, now excluding only Barbados residents, while, before the amendment, all CARICOM residents were excluded from holding shares.

New legislation is planned to provide for the offshore establishment of mutual funds, limited liability companies, registration of intellectual property rights, overseas headquarters companies, special purpose vehicles for leasing and financing transactions, limited partnerships and international trusts, and to provide greater flexibility in the formation of offshore business entities.

An additional stimulus to the offshore sector was further given by the expansion of the double taxation treaty network and by the streamlining of the issuance and cancellation of licenses.

#### 10.1.1. Types of registered offshore institutions

At the end of 1994, there were 1486 International Business Companies licensed in Barbados, accounting for approximately 70 per cent of the total financial contribution of the offshore sector to the economy. An IBC must satisfy the following five requirements: (a) it should be incorporated or registered as an external company in Barbados; (b) it should carry on manufacturing or trade of goods and services for export to countries outside of the CARICOM subregion; (c) it should hold a valid licence; (d) it should have no more than 10 per cent of the interest and dividends due in the normal course of business, payable to residents of CARICOM; and (e) it should have no more than 10 per cent of the assets distributable on liquidation, payable to residents of CARICOM. There are about 10 IBCs in Barbados, that conduct data processing.

IBCs enjoy a corporate tax between 2.5 per cent and 1 per cent on a sliding scale, while dividends, interest, fees and royalties paid to other IBCs or non-residents are tax exempted. Also exempted from tax and duties are import materials, production plants and machinery necessary for their international business, as well as capital gains and transfer of securities. IBCs are also exempt from exchange control. The fees payable by the IBC to the government are US\$400 upon incorporation, and an US\$100 annual fee. The number of new licences extended in the first three months of 1995 was 90.

**Offshore banks** in Barbados are regulated by the Offshore Banking Act, and can conduct all major banking transactions, including taking deposits of foreign funds, the placements of bonds, certificates, notes or other debt obligations,

and lending and investment abroad. In addition, some banks offer trust and letters of credit services. Moreover, a substantial part of the business is providing services to other registered offshore companies. The number of licensed offshore banks increased from 22 in June 1994 to 25 by December 1994. The incentives offered are basically the same as for the IBCs. The annual licence fee is US\$12,500. A qualified foreign bank licensed under the Banking Act of Barbados is required to separate its offshore banking activities from its other activities in Barbados and to keep separate records for each. At least one of its directors should be a resident of Barbados. Offshore banks are required to have a minimum authorised share capital of US\$1,000,000 and a minimum issued capital of US\$500,000. In case the company is controlled by residents, these minima may be US\$250,000 and US\$125,000, respectively. In addition, the bank must maintain a reserve fund, to which profits have to be transferred if the reserves are smaller than the issued capital.

**Trusts** can be established by any person, whether a resident of Barbados or not. This can be done without naming the settlor, and without filing the trust with any regulatory authority. Trustees can be either resident or non-resident individuals or corporations. The number of trust companies in Barbados in December 1993 exceeded 39.

As signatory of the Tax Information Exchange Agreement with the United States of America, Barbados qualifies as one of the foreign countries, in which a United States company may incorporate a **Foreign Sales Corporation (FSC)**. The FSC should first be designated as such under the laws of the United States, before it can be licensed in Barbados. The main activity of the FSC is foreign trade transactions. At the end of 1994, 1173 licences had been issued, while in the first three months of 1995 an additional 125 received a licence. Incentives offered by Barbados include exemption from corporation tax, withholding tax, property transfer tax, customs duties, consumption tax, ad valorem stamp duties and foreign exchange control. The FSC is not obliged to file annual returns, to appoint an auditor or to have directors' and shareholders' meetings in Barbados. Most FSCs are paper companies and hence provide only administrative jobs. The direct benefits for Barbados are the licence fees, ranging from US\$600 for small FSCs and US\$1,100 for larger FSCs, and the annual renewal fee of US\$500 for small FSCs and US\$1,000 for larger FSCs.

**Exempt insurance** is the business of insuring risks not located in the offshore centre by a company whose equity is owned by persons resident outside the Caribbean Community. Exempt insurance companies (EIC) in Barbados must have at least one resident citizen as director and a minimum issued capital of US\$125,000. Application and registration fees are US\$2,750, while the annually payable fee amounts to US\$2,500. Insurance management companies that are incorporated to provide services to exempt insurance companies are subject to the same fees. Incentives to these companies are exemptions of tax on income, capital gains and profits and on transfer of assets or securities. There is no withholding tax levied and the company is free of exchange control. The offshore insurance industry is, however, subject to strict control by the Supervisor of Insurance.

The number of active EICs and exempted insurance management companies were 194 and 38 respectively at the end of 1994.

Barbados hopes to attract **ships** for registration under the Barbados flag, and for shipbuilding, reconstruction and maintenance, by offering exemptions on dividend tax to residents and import duties on ships and equipment. The costs of registration are US\$0.75 per gross tonne for vessels up to 5,000 tonnes, and US\$0.50 per tonne for heavier vessels. Presently, 33 vessels exceeding 150 gross tonnes have been registered.



#### 10.1.2. Canadian companies in Barbados

The number of Canadian-owned IBCs or exempt insurance companies in Barbados is remarkably high. This can be explained by a Canadian tax provision which exempts dividend earned out of active business in Barbados and repatriated from tax payable in Canada. Recent adjustments in Canadian tax legislation grant this exemption only to companies that employ at least five persons in Barbados, and that have mind and management located in Barbados, rather than in Canada.

#### 10.1.3. Contributions to the domestic economy

A study prepared for the Government of Barbados in July 1994, reveals that the direct government revenues generated from the offshore sector through taxes and fees amounted to US\$9.7 million in 1993. The true amount is probably higher, since it is only based on clients' data of the four largest accounting firms in Barbados. The study shows that the contribution to the economy through payroll costs and other local costs, is US\$20.9 million and US\$26.3 million, respectively, bringing the total contribution to the economy to US\$57.0 million. The contribution to the domestic economy derived from operating costs (83 per cent) is, therefore, far larger than from taxes (17 per cent). This can be explained by the large number of people employed in the data processing industry in Barbados, who tend to earn relatively high salaries. Allegedly, the international sector provides employment for over 2000 Barbadians, of which 1250 are working in data processing. It can also be explained by the high number of offshore companies with and without a tangible presence, which have to purchase different local services, from accountants, banks, insurance companies, lawyers, telecommunication companies, real estate companies, hotels, caterers and travel agents.

The high-tech data processing plants contribute directly to the development of the workforce by training the staff in handling the newest technologies available in the communication industry and indirectly by requiring sophisticated professional services from the local service sector.

#### 10.1.4. Treaties

Barbados is pursuing an active policy to establish tax treaties with other countries. Treaties have been concluded with Canada, Finland, Norway, Sweden, Switzerland, the United Kingdom and the United States, while negotiations are reportedly in progress with Argentina, Brazil, China, France, Germany, India, Mexico, South Africa and Venezuela.

The signing in 1984, of the Tax Information Exchange Agreement with the United States, provided Barbados with: (a) the eligible country status under the Caribbean Basin Recovery Act 1983 to host Foreign Sales Corporations; (b) certification as a North American Area, thus qualifying for foreign convention deduction benefits in the United States; and (c) access to 936 funds held in Puerto Rico for financing of qualified projects.

#### 10.1.5. Money laundering

All banks applying for a licence are thoroughly checked by the Central Bank using information from the Federal Reserve, the Bank of England and Interpol. The memorandum and articles of association, as well as the auditors of the applying bank, should be acceptable to the Central Bank. During the year the Central Bank monitors the offshore banks via their quarterly returns, the annual statement and

the auditors statement. On-sight examinations are not normally performed, although the law makes provision for them. The Central Bank of Barbados is of the opinion that the selective licensing policy and periodic monitoring is sufficient to avoid the entry of less reputable banks and hence to avoid illicit transactions and money laundering.

## 10.2. Netherlands Antilles

The Netherlands Antilles is one of the older offshore centres in the Caribbean. Companies have been attracted to the Netherlands Antilles because of their special relation with the Netherlands, the tax treaty with the United States, the low taxes and the good domestic and international infrastructure of Curacao, the main island of the Netherlands Antilles.

An Income Tax Convention was concluded in 1948 between the United States and the Netherlands, and extended to the Netherlands Antilles in 1955. Although the treaty was terminated by the United States on 1 January 1988, Article VIII of the Convention and its ancillary provisions still remain in force. This article provides for the exemption of United States withholding tax on interest, dividend and royalty payments from the United States to the Netherlands Antilles, if certain conditions are met. This feature is of particular interest to finance companies that fund operations in the United States.

The Netherlands Antilles form part of the Kingdom of the Netherlands, and hence gained their associate membership in the European Union. The Tax Regulation for the Kingdom ("BRK"), that regulates the tax affairs between members of the Kingdom, provides for beneficial treatment for dividends received from the Netherlands. Withholding tax on dividends paid by a Dutch company to a resident of the Netherlands Antilles is reduced to 15 per cent, or to 7.5 per cent if at least 25 per cent of the Dutch companies' capital is held. This 7.5 per cent can be further reduced to 5 per cent if the Netherlands Antilles company elects to be taxed in the Netherlands Antilles at a rate of 5.5 per cent.

The Netherlands Antilles is not a zero-tax jurisdiction, but has a low tax regime for companies with offshore status. The reduced profit tax rate varies between 2.4 per cent and 9.66 per cent, depending on the sort of business the company is involved in, and the level of profit generated. The only exceptions are qualified mutual funds and captive insurance companies, which are taxed at fixed amounts of US\$1,000-10,000 and US\$1,350, respectively. Mutual funds are completely profit-tax exempted if the following conditions are fulfilled: they should have either at least 50 shareholders, a capital of US\$50 million and provide employment to at least four individual nationals, or it should have a capital that exceeds US\$300 million and provides employment for at least two individual nationals.

### 10.2.1. Types of registered offshore institutions

Companies that are formed with the main purpose of deriving income from investment or trading activities outside the Netherlands Antilles, and of which the shares are solely held by non-residents, can qualify for offshore status. They can thus get special tax treatment and exemption from exchange control and exchange taxes. The most used legal entity for an offshore company is the limited liability company 'Naamloze Vennootschap' (NV). By the end of 1993, approximately 22,000 offshore NVs were registered. A wide range of activities can be conducted, which should be specified in Articles of Incorporation of the NV, which have to be submitted to the Ministry of Justice for a declaration of no objection.

**Finance, investment and holding companies** are historically the best represented in the Netherlands Antilles. The finance subsidiaries are often used by multinationals based in the United States of America, Netherlands, France and Germany, to float their Euro-bonds.

With respect to the holding companies, the traditional "Dutch sandwich" continues to be a popular means for foreign investment in the United States, Europe and other industrialized nations where dividends are a significant source of income. In a typical Dutch sandwich, the foreign investor would form a Netherlands Antilles company as parent of a Dutch company which owns the operating companies. The Dutch company will (in appropriate cases) receive a participation exemption from the Dutch tax authorities to exempt the dividend income and capital gains from Dutch tax and will pay a reduced withholding tax of typically 0 to 5 per cent on dividends received. Under the special tax regime BRK, dividends can then be paid to the Netherlands Antilles parent company at a reduced Dutch withholding tax rate.

**Offshore banks** were, since 1 January 1994, subject to the new "Government Ordinance on the Supervision of the Bank and Credit Institutions 1994". This law incorporates the stricter rules as proposed by the Committee of Basle providing for closer monitoring of liquidity, solvency and portfolio quality, and illustrates the desire of the Government to keep the credit sector as clean as possible. Reportedly, about 11 of the 56 banks registered by the end of 1993, were obliged to cease operations since they could not meet the new regulations.

Allegedly, several offshore banks attracted substantial flows of flight capital from Latin America in the past, which are now kept in deposit and partially reinvested in Latin America.

Trusts in the Netherlands Antilles are more correctly referred to as **corporate management companies** since the legal system is Napoleonic rather than Anglo-Saxon. The number of active corporate management companies is estimated at around 39.

**Mutual funds** became of increasing interest for the Netherlands Antilles after 1987, with corporate management companies now providing extensive administrative services for approximately 450 international funds, having total assets in excess of US\$25 billion. A number of these funds are publicly traded and have been approved for listing on some of the major European stock markets.

**Retirees and pensioners**, or pensionados as they are locally called, can establish themselves in the Netherlands Antilles and enjoy a 5 per cent tax rate on their worldwide pension and interest income, under the following conditions: (a) they have been permitted as a resident; (b) they buy a house for at least NAF 240,000; (c) they employ one or more Antillean-born citizens; and (d) they must have resided outside the Netherlands Antilles for five consecutive years prior to taking pensioners status. A result of this ruling was that the prices in the house market rose significantly, and made it unaffordable for many Antilleans to buy a house. The increase of the minimum purchase price of a house to a NAF500,000 and the setting of a minimum age of 45 is being considered, to mitigate the effects on the housing market and restrict the immigration of too many young affluent retirees.

**Registration of ships** in the Netherlands Antilles recorded a peak in 1975 when it ranked seventh worldwide. Since then the market share has contracted substantially. Lately there is a reported increase again, to an estimated 200 registered vessels, thanks to the possibility of registering bareboat charters. These charters are bare foreign ships rented by a Netherlands Antillean company

for cargo or passenger transport. The chartered ship sails under the Dutch flag, as the Antillean flag is not internationally recognized, while the security and the crew is subject to Antillean regulations. The qualified shipping companies can enjoy low taxes at effective rates of between 7.7-9.6 per cent or Naf 0.40 per gross registered ton, up to a maximum tax of US\$560 per vessel. Similar tax laws also apply to air transport companies.

#### 10.2.2. Contributions to the domestic economy

The main direct source of income for the government is the profit tax. In 1986 this amounted to US\$260 million or 59 per cent of total government revenue. The partial termination of the tax treaty by the United States in 1988 resulted in a redomiciliation of about 10,000 of the 28,000 companies, causing a proportional fall in revenue, to only US\$112 million or 28 per cent of total government revenue in 1993. During the last two to three years new registrations brought the total number of companies back to 22,000 without, however, reversing the trend of decreasing revenues. Reportedly, 10 to 15 per cent of the revenue generated from the offshore sector comes from the banks. The rest is mainly generated from investment and trading companies.

**Table VII. Profit Tax Revenue From the Offshore Sector in Curacao 1986-1993**

	1986	1987	1988	1989	1990	1991	1992	1993
US\$ Million	260	212	195	171	131	121	104	112
% of Total Government Revenue	59%	54%	53%	47%	43%	38%	33%	28%

Source: Central Bank of the Netherlands Antilles

Other revenues for the country, which are more difficult to measure but nevertheless significant, are:

(a) The taxes on wages from the employees in the offshore companies or supporting companies, like accountants, notaries, lawyers, etc. According to one estimate, approximately 3,000 persons are working in and around the offshore sector, paying income tax at progressive rates between 7.2 per cent and 57.2 per cent.

(b) Management fees paid to corporate management companies can be quite significant and are subject to the normal corporate tax rates varying between 36.8 and 44.85 per cent.

Some offshore companies can register cheaper and faster in other offshore centres, but get their administration done in Curacao, where more extensive facilities are provided. Hence they indirectly contribute to the Netherlands Antilles economy via employment and service fees.

A less tangible and non-quantifiable benefit from the offshore industry, is the transfer of knowledge from the expatriates to the Antillean working population, providing the islands with a continuously updated source of relevant global knowledge and information.

### 10.2.3. Treaties

Presently, double tax treaties exist with the Netherlands and Norway, while only Article VIII remained from the 1955 treaty signed with the United States. The Government is in close cooperation with the private sector, actively monitoring the possibilities for entering into additional tax treaties with countries such as: Canada, Sweden, Belgium, Italy and Austria.

There is no Tax Information Agreement or Mutual Legal Assistance Treaty in force. The organizations representing the Netherlands Antilles banking and offshore industry agreed, however, to adhere to the Statement of Principles as adopted by the Committee on Banking Regulations and Supervisory Practices (Basle Committee).

### 10.2.4. Money laundering

To reduce the risk of money laundering, new legislation is being prepared, one aspect of which is the "Melding Ongebruikelijke Transacties" (notification of unusual transactions), which constitutes an obligation for banks to inform the Ministry of Finance of any transaction exceeding a certain threshold.

Other steps that are being taken to fight money laundering, are the establishment of a secretariat in the Central Bank, and the implementation of recommendations of the Financial Action Task Force. In addition, a fiscal fraud team will become operational in 1995.

### 10.2.5. Anti-takeover legislation

To protect Netherlands Antilles publicly traded companies against hostile take-overs, the Government adopted special legislation which states that a person that acquires 5 per cent or more of the voting power of such company must advise the board of this company, which in turn must make a public announcement. The legislation also compels any shareholder who acquires 20 per cent or more of the voting shares, without Board approval, to make a public offer for all the remaining outstanding shares.

## 11.0. New developments in the offshore industry

For the most part, offshore transactions are strictly separated from the domestic economy. However, from recent literature it appears that in future, offshore centres might be used to finance operations in the host country itself. Basile (1993) suggests that appropriate offshore banking facilities could be used to assure foreign companies, of adequate finance. He sees this as being especially valid, if the financial system in the host country cannot satisfy the financial requirements of all the firms that are willing to operate there. Necessary hard currency might be unavailable or at very high cost, or existing regulations and institutions might form barriers difficult to overcome. He mentions two issues that should be considered in this context. Firstly, how to achieve the conditions which permit a return on capital which is at least comparable to that obtained elsewhere. And secondly, how to achieve the gradual integration of the financial intermediaries in the host country into the international financing process, with all the structural changes and adjustments that this entails.

'Offshore Outlook', a newsletter which follows the developments in the offshore industry worldwide, sees an important role for offshore banks in Export Processing Zones (EPZs). Banking services could be provided to EPZ companies, in the area of Letters of Credit, loans and deposits in hard currency denominated accounts. This would facilitate tax planning for the foreign companies, and increase overall activity in the zone. It is posited that EPZ companies are currently financing half of their investment needs through loans rather than equity, and that financing locally could be more attractive than financing in the home country because of the tax benefits. There was also a role envisaged for insurance brokers, which could provide coverage for the EPZ companies in the course of their activities.

Other efforts to channel offshore investment funds into the domestic economy of the host country are seen sporadically. The earlier mentioned PIC in Belize, is one example, while other countries look at financing tourism projects with funds attracted through their offshore sector. A necessary condition for success remains that the return on investment will be at least as good as comparable risks in the international market.

#### **12.0. Closing remarks**

It can be seen from the foregoing that many countries are active in the same offshore areas, providing similar services, competing for small margins on price and comparative advantages that may exist. At the same time, international institutions are trying to restrict money laundering and tax evasion by increasingly tightening the net of international finance. Nevertheless, moderately optimistic views of the future of the offshore sector are heard from people who see a niche for centres with know-how and the ability to maintain the lead in finding and exploiting new areas. For those centres in the Caribbean, however, that merely offer scope for cheap and easy registration and low taxes without extensive services, a lasting future is not foreseen.

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