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ECONOMIC COMMISSION FOR LATIN AMERICA  
Office for the Caribbean



INSTITUTIONALIZATION OF TRANSPORT

IN THE

CARIBBEAN COMMUNITY

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Institutionalization of Transport  
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The purpose of this memorandum is to record the results of my discussions with the Regional Secretariat, 9-11 July 1973, on the draft protocol on regional shipping in our note POS/INT 73/2. We discussed the substantive provisions in detail first with Mr. Blake on 9 July in the evening, then, with him and Mr. Arjoon on 10 July in the morning. Later we went over the relationships of the draft with CARIFTA Agreement and with the Community Treaty with Mr. Carrington. Mr. Hanley also contributed his comments on the changes between the draft Community Treaty and the final text. Then Mr. Carrington had a session with Mr. Tyndall to clarify the various questions which came up. The following is the synthesis of these exchanges.

Under the draft Community Agreement, the Regional Shipping Council was one of the Institutions of the Community. The Council would have been a Ministerial body on which all the Member States would be obligatorily represented. Provisions of the draft protocol in POS/INT 73/2 anticipated this formulation and would have been an implementation of those clauses.

In the Chaguaramas Treaty, the Regional Shipping Council has been designated as one of associated institutions, a new provision, which did not exist in the draft treaty dated May 1973. Accordingly, the Community Institutions are ministerial bodies concerned with policies and with supervision, direction or guidance as the case may be, of specialised organizations and agencies either created by, or brought into relationship with the Community. The Associated Institutions are operational agencies and do not have the status of policy-making bodies of the Community, though they may set policy guidance to the respective bodies they operate. Applied to the Regional Shipping Council, from the point of view of the Community, it is not a policy-making body nor is it a ministerial body called to supervise regional shipping services.

The placing of the Council among the Associated Institutions is due to the interventions of Jamaica, which insisted that the Regional Shipping Council should not be a ministerial body. It is the same

position demonstrated already in Jamaica draft statute establishing the Regional Shipping Council. To all practical purposes, it is as if the signers of the Chaguaramas Treaty assumed that the Jamaica Draft had been accepted for the restructuring of the Regional Shipping Council and the West Indies Shipping Service. <sup>1/</sup>

The Council has developed over the last four years to be an ad hoc ministerial body. It acted as if the Conference of Heads of Governments relied on its initiative for implementing the decision of the Fourth Conference termed by that Conference as rationalization of shipping, both regional and overseas. The current areas of action on which the Council has been asked for decisions or recommendations by the Secretariat are the following ones: WITASS Conference; Freight Rates; Regulation of Shipping; Extra-regional Shipping; Rationalization of CARIFTA Shipping; WISCC Draft Agreement; and Statistics on Shipping.

As a result of the new clause dealing with the Council in the Community Treaty, and knowing what interpretation should be given to it, this situation now changes completely. The Regional Shipping Council will be competent only to arrange for shipping within the Community region.

Designating the Council as an associated institution instead of an Institution of the Community means reducing its status and limiting its terms of competence, which does not seem to reflect adequately other clauses of the Community Treaty. In particular, Article 18 and the Schedule of the Treaty taken together prescribe that Governments should make every effort to co-operate in shipping and air transport as a matter of priority. In the light of the position taken by Jamaica, the only conclusion that can be drawn in order to explain this apparent inconsistency is that Jamaica is of the view that in shipping the only problem that requires a common effort, is the one of inter-regional services.

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<sup>1/</sup> Apparently, Mr. Tyndall summed up the results of the drafting of the particular clause in the words that "Jamaica carried the day".

The situation of the transport sector in the Community certainly is not that favourable or adequate as the Jamaica position seems to imply. The acceptance of the solution given to the problem of the Regional Shipping Council could be rationalized only on the assumption that the Treaty clause on establishing other Institutions of the Community (Article 10) will be applied later. That is, a permanent Ministerial Committee on transport will be established at a suitable stage, once the Conference of Heads of Governments is convinced of its necessity and is unanimous that a standing Committee of Ministers can be set up as a policy-making body, with responsibility for Community transport development. The associated institutions which would report to the Community would then be: (a) the Regional Shipping Council in the first place; and (b) an operational body competent for extra-regional shipping including negotiation with Conferences (alternatively, this Body could be either autonomous or could be merged with the Regional Shipping Council for inter-regional shipping). Then there should be: (c) regional association of port authorities which would have also competence for modernization of land transport through the area of influence of the individual ports. Finally, there would be (d) a Civil Aviation Council which would comprise an air fares committee. The above organization would have combined secretarial services, in that the Community Secretariat would service both levels of these institutions, .....

The above outline is the proper institution building concept which reflects fully the provisions of the Community Treaty and the binding decisions taken during the period of CARIFTA. At the same time, it is a more advanced formula than previously discussed measures of functional co-operation.<sup>2/</sup> The actual institution building will require a substantial effort and could be only accomplished through the decision of the Conference, when the Governments are unanimous that they can advance the development of the transport sector through a joint effort and adherence to common policies.

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<sup>2/</sup> See in particular, pages 48-49, 120-121 and 136 of From CARIFTA to Caribbean Community, Commonwealth Caribbean Regional Secretariat, May 1972.

In the Secretariat, thought has already been given to the preparation of a transport survey as a stage leading to the formulation of a permanent transport institution. As an orientation as to how the survey could be done, it has been decided to look into a precedent set by the Asian Development Bank when it carried out, in 1971 in co-operation with UNDP and other agencies, an integral study of transport for the South Asian countries.<sup>3/</sup>

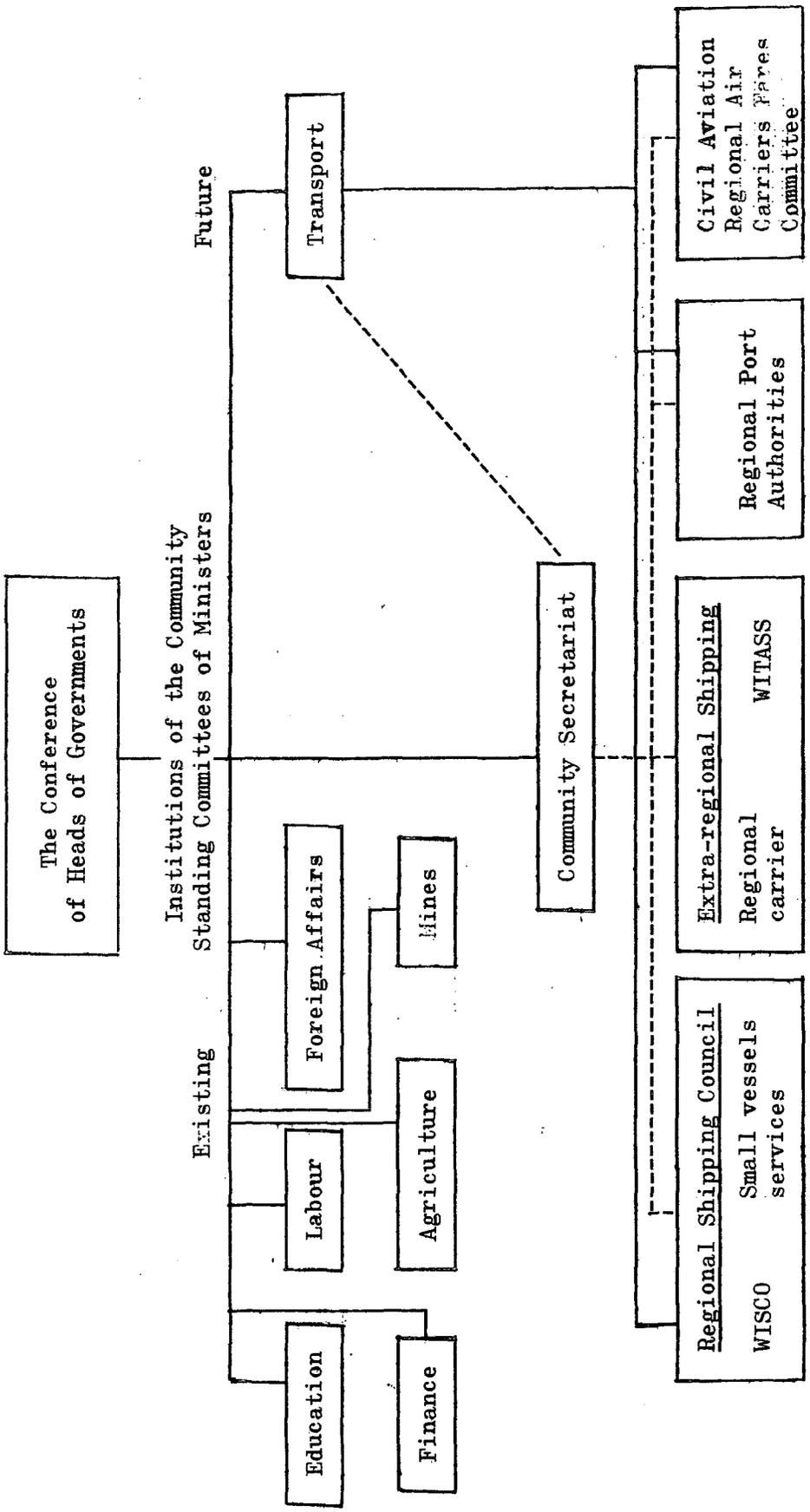
If the Jamaica Draft statute on regional shipping better approximates or reflects the intentions of the signers of the Community Treaty, it still does not mean that it must be followed without modification. This draft blocks out the main ideas only.<sup>4/</sup> It has been possibly deliberate that numerous issues have been left out and there should be no hesitation to inserting the missing additional provisions. Models for the latter could be sought in the other previously discussed or circulated texts of the draft agreement.

S. Ambrozek

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<sup>3/</sup> Summary of the survey is on ECLA/POS internal file.

<sup>4/</sup> The drafters are Messrs. B.J. Scott, Attorney General's Office and A.J. Harris, Ports Shipping Economist, Ministry of Transport.



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