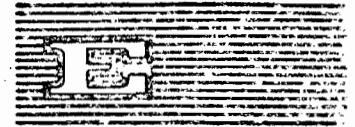


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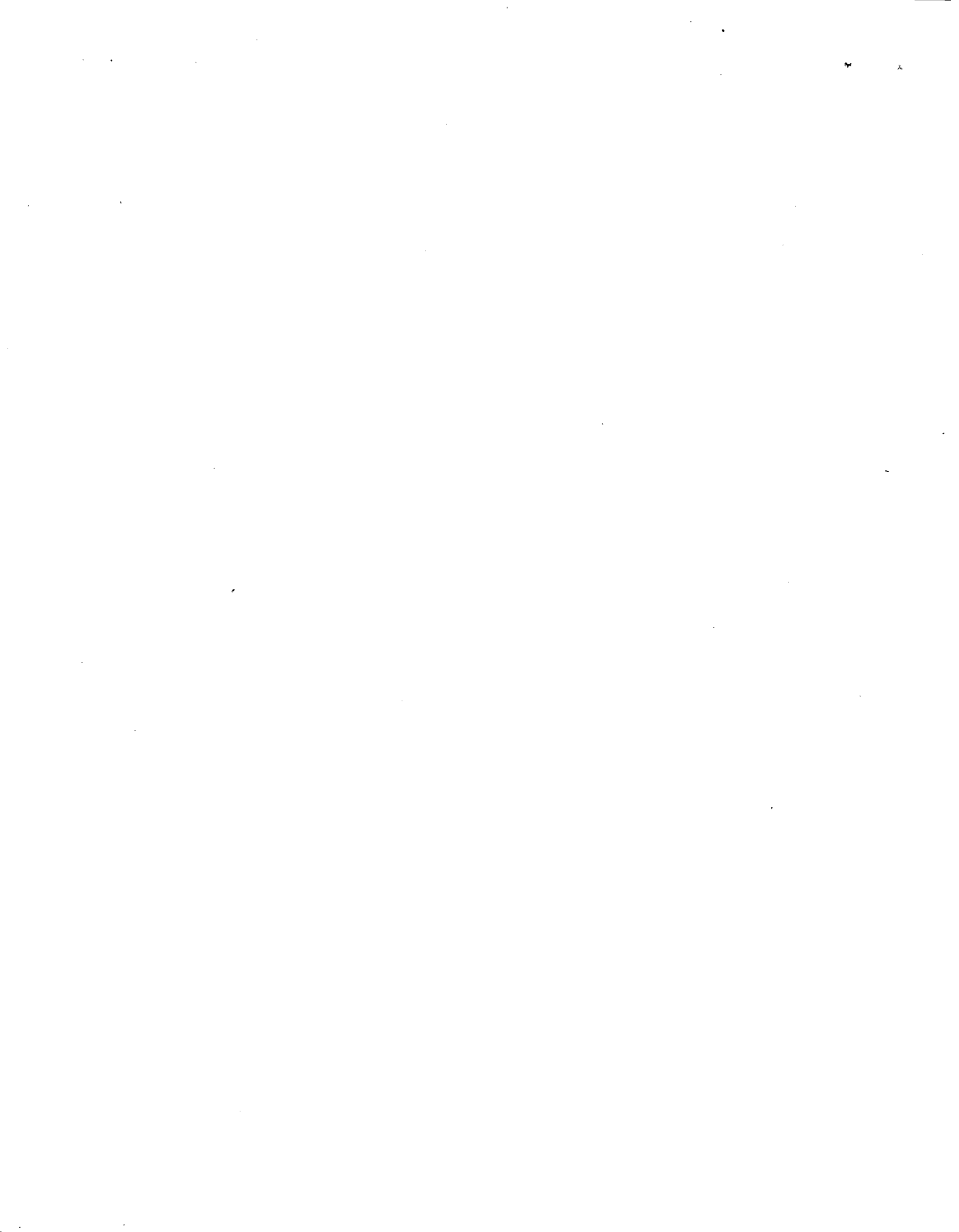
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ECONOMIC COMMISSION FOR LATIN AMERICA
Office for the Caribbean

WIDENING OF THE CARIBBEAN
INTEGRATION PROCESS

Note
on
Some Institutional Procedures
and Aspects



PREFACE

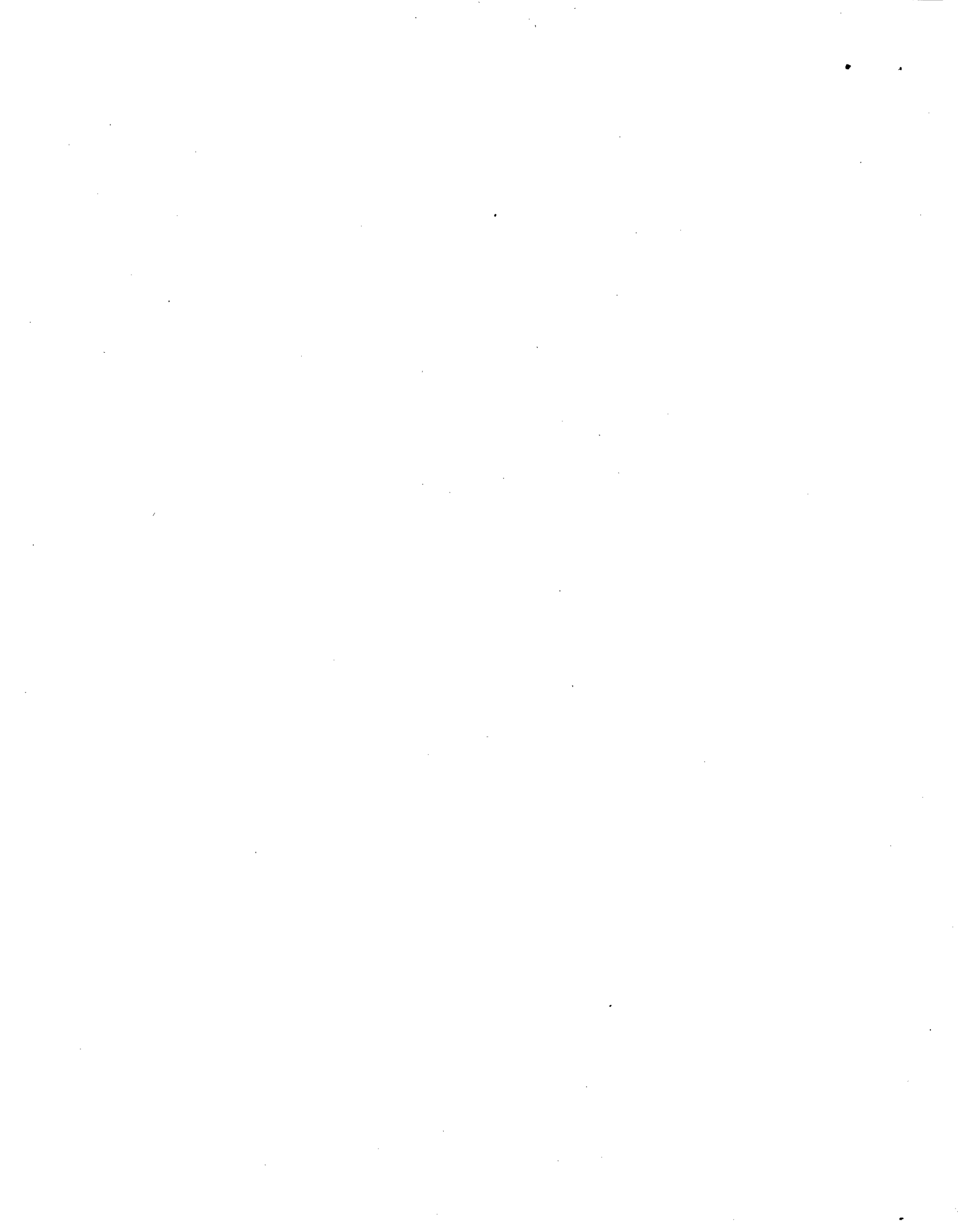
Consideration of measures for widening the geographical scope of the integration process in the Caribbean immediately brings into focus some questions of relationships of non-CARIFTA/CARICOM countries with the CARIFTA/CARICOM group. This note concentrates on the provisions and procedures relating to Membership in, Accession to, and Association with the Caribbean Community and the Caribbean Common Market.

The expressed interest of some non-CARIFTA/CARICOM countries has been "to seek Observer Status" presumably as an initial step in developing a close working relationship. It has to be appreciated however that the term 'observer' is a generic one covering a wide range of situations. The object here is to clarify the arrangements in the CARIFTA/CARICOM framework, and to identify the possibilities for the development of relationships for initiating the integration process between the CARIFTA/CARICOM group and other Caribbean countries.



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THE RELEVANT BACKGROUND

1. The integration process established by the English-speaking countries of the Caribbean has stimulated wide interest in the area, and there is substantial good-will both among the participants and the non-participants regarding widening the scope of integration. The Caribbean area however, presents a variety of political, socio-economic, ethnic and language features influenced by its history and its former or present status of dependency. This considerable fragmentation of the Caribbean into language and culture groups according to historical association with Metropolitan countries, presents some special problems for expanding the integration process among the countries of the area.
2. As a general rule, the isolation between English-speaking, Spanish-speaking, French-speaking and Dutch-speaking countries has been so strong that countries in any one group are largely ignorant about the economic and social characteristics of countries in the other groups. Aside from differences that derive from language, there have been few established communication links and no tradition of travel between the countries, so that the stock of everyday knowledge which populations usually have about neighbouring countries barely exists. It needs to be borne in mind too, that the Caribbean countries are not contiguous, and are in some cases separated by large expanses of sea.^{1/}
3. Governments in one culture group faced with making decisions regarding the development of economic relationships with countries in another culture group therefore have the initial problem of obtaining basic information and disseminating it within their own countries. Beyond this there is the need also for specific information as the basis for analysing and assessing the implications of alternative

^{1/} For a fuller exposition reference may be made to the paper "ECLA AND THE CARIBBEAN: Some thoughts on Strategy for the Future - ECLA/POS 72/6."

lines of action. In the Caribbean situation the problem of assessing the advantages and disadvantages of participation in integration is even more acute, because the fact-gathering systems are not highly organised; very little specific economic and social data is published; and what is published seldom circulates in other countries of even the same language group.

4. The first step therefore is to overcome the lack of basic information and general knowledge about the neighbouring countries, which is necessary in the process of informing public opinion. This of course has to be supplemented by the specific social and economic statistics required for detailed analysis, always bearing in mind that the statistical information where it exists, is seldom on a common methodological basis.

5. Then there is the need for Governments to have the facility of access to specific explanation of the meaning and functioning of the integration instruments. The physical aspect of making copies of the authenticated texts of the instruments in the original language widely available throughout the Caribbean area ought not be too difficult. However there are still the problems relating to authenticating versions of the texts in other languages, bearing in mind that differences in legal codes make it difficult to transfer exact textual interpretations from one culture pattern to another.

TERMS OF THE INTEGRATION INSTRUMENTS

6. The provisions of the Caribbean Free Trade Association (CARIFTA) Agreement did not stipulate any particular set of qualifications for joining the Association.^{2/} The concept was that any country whatever, contemplating any kind of formal association with the CARIFTA group could enter into consultation with the Council of Ministers and from these consultations would evolve the suitable terms of association.

^{2/} Article 32 of the CARIFTA Agreement: The articles of the various instruments to which reference is made in this note are reproduced in the Appendix.

The legal instruments of CARIFTA placed no limitation on the nature or scope of such consultations, which it was envisaged would be determined by the particular circumstances of the countries involved. The Council of CARIFTA was empowered by the Agreement to decide whether or not discussions should be initiated, to conduct negotiations if it was so decided, and to determine the procedures that would apply.

7. It is therefore worth noting that the provisions of the Agreement allowed not only for other countries to accede to CARIFTA, but also for the CARIFTA countries as a group to enter into any form of association that might be deemed desirable with any third country or group of third countries. In each case the CARIFTA Council decisions would reflect the reciprocal rights and obligations and the common actions that could be taken by the consulting or negotiating parties.

8. Only three cases were considered in terms of these CARIFTA provisions. The underlying circumstances were sufficiently different to result in two broad types of action. These cases however stimulated close examination of the scope and acceptability of several types of relationships some of which are outlined later in this note. In the light of the results of the examination some specific decisions were taken and these are also indicated. The CARIFTA arrangements are however being superseded by the CARICOM provisions, and while the CARIFTA precedents are directly relevant in that many decisions will need to be taken over to CARICOM, any new cases that arise will be considered in the context of CARICOM provisions.^{3/}

^{3/} The dates of withdrawal from CARIFTA notified in accordance with Article 33 are:

30 April 1974 - Barbados, Guyana, Jamaica, Trinidad
and Tobago
October 1974 - Belize, Dominica, Grenada, St. Kitts-
Nevis-Anguilla, St. Lucia, St. Vincent
January 1975 - Montserrat

9. The Treaty establishing the Caribbean Community (CARICOM) contains somewhat similar provisions to those that had been made in CARIFTA except that accession to any kind of membership is now specifically limited to countries in the Caribbean region. In this regard the CARICOM Treaty lists the countries that have always participated in the Commonwealth Caribbean Heads of Governments Conferences as those to which membership is automatically open. It also provides for accession of other Caribbean countries to full membership of the Community.^{4/} As with the CARIFTA provisions, there is wide flexibility for negotiating the terms of accession to Membership and the manner in which such terms would take effect. It has to be noted however, that certain qualifications apply to membership in the Caribbean Community.

The Conference of Heads of Governments need to be satisfied that the acceding country is ... "able and willing to exercise the rights and assume the obligations of membership."^{5/} On the basis of this assessment the terms and conditions of membership would be negotiated.

10. To allow for the diverse situations of the Caribbean countries, this instrument provides for a variety of alternatives. Although it is envisaged that members of the Caribbean Community would also be members of the Caribbean Common Market, there is the scope for a country to be a member of the Community and not of the Common Market.^{6/} There is the provision too, that membership in the Community is possible even given differences in levels of constitutional competence.^{7/}

^{4/} Articles 2 and 29 of the Treaty establishing the Caribbean Community.

^{5/} The wide variety of constitutional situations of the Caribbean countries always has to be borne in mind. CARIFTA included in its membership four full independent countries, six partially independent states, and two territories in colonial status. Among the non-CARIFTA countries the situation is no less diverse, resulting in a variety of degrees of constitutional competence to undertake legal obligations.

^{6/} Article 31(1) of the CARICOM Treaty.

^{7/} Article 31(4) of the CARICOM Treaty.

11. The CARICOM Treaty in addition provides for Associate Membership which is also limited geographically to the Caribbean region, the qualification being the same as for membership.^{8/} In this case also the terms and conditions of association need to be negotiated with the Heads of Governments Conference. And it is worth noting that no specific link is made between Associate Membership in the Community, and Membership or Associate Membership in the Common Market.

12. The Caribbean Common Market Agreement which is annexed to the Caribbean Community Treaty, follows the pattern that membership is automatically open to the previous participants in CARIFTA.^{9/} Also similarly as with the Community Treaty, membership in the Common Market is open to any Caribbean country. Here again there are alternatives, in that it is possible for a country to elect to be a member of the Caribbean Common Market but not of the Caribbean Community.^{10/} In addition there is provision for Associate Membership to the Common Market. It should be noted too, that this is independent of Associate Membership in the Community.^{11/}

For both Membership and Associate Membership of the Common Market there is the qualification of "ability and willingness to exercise the rights and assume the obligations" of membership.

13. It is therefore possible to list a summary of alternative types of relationships provided in the CARICOM Treaty and the Common Market Agreement, none of which is conditional on any other:

- (i) Member of Community and Common Market;
- (ii) Member of Community;
- (iii) Associate Member of Community;
- (iv) Member of Common Market;
- (v) Associate Member of Common Market.

^{8/} Article 30 of the CARICOM Treaty.

^{9/} It would be noted that the list of 'founding' members for the Caribbean Community includes the Bahamas, while the similar list for the Caribbean Common Market does not include the Bahamas.

^{10/} Article 65(1) of the Common Market Agreement.

^{11/} Article 72 of the Common Market Agreement.

And it is immediately evident too that a range of combinations are also possible, which are not expressly ruled out by the integration instruments.

14. Few specific procedures are detailed in the instruments. In fact for both the Community and the Common Market mention is made only of application for membership or associate membership in which the option should be stipulated, the type of action that would be pursued at the level of the Heads of Governments Conference, and the specific act that would bring membership into effect.^{12/} In arriving at the specific terms and conditions that would apply there is however the significant difference between membership and associate membership that in the case of the former it would be arrived at by negotiation, while for the latter it would be determined by the Heads of Governments Conference.^{13/}

15. Aside from the possible relationships already enumerated as deriving from the main instruments, there are still other possibilities for non-CARIFTA/CARICOM countries to develop integration relationships with the group within the workings of some supplementary agreements. While participation in most of the supplementary agreements are conditional on participation in the Common Market, there are others which allow for participation by non-CARIFTA/CARICOM countries.^{14/}

^{12/} Obviously the only thing required to commence the process is a letter from the appropriate Ministry of an interested country addressed to the Conference through the CARICOM Secretariat.

^{13/} This principle applies to both the Caribbean Community and the Caribbean Common Market.

^{14/} For example, Articles 1 and 26 of the Agreement on the Harmonization of Fiscal Incentives to Industry has the familiar pattern on listing the countries that participated in CARIFTA as those to which membership is automatically open, and making provision for accession by any other Caribbean country.

Similarly, though not directly a part of the economic integration machinery, the Agreement establishing the Caribbean Development Bank does provide another avenue for the forging of working relationships with the CARIFTA/CARICOM group. Colombia and Venezuela have acceded to membership in the Bank.

/16. While

16. While bearing in mind the range of alternatives offered by the Community and Common Market instruments it is worthwhile to consider the precedents that were adopted in the CARIFTA context after examination of various constitutional, legal, diplomatic and political implications.

"OBSERVER" STATUS

17. Since the inception of CARIFTA non-participating governments interested in developing close working relationships with the group have invariably expressed this need in terms of 'observer' status. Undoubtedly what is sought is a situation in which they can obtain, at first hand, information on the instruments and practice of the integration programme. In its common usage observer status applies to international conferences where participation is granted without the right to vote. However, it has not been the practice for integration groupings to invite non-member states to participate in meetings of the prime policy-making body. In fact if there is a general principle, then it would be that observer status as commonly understood is never granted to non-member states.^{15/} It is therefore of significance to note the decisions on the cases that came before the CARIFTA Council.

18. The first concerned the only country that acceded to CARIFTA, Belize, a member of the Commonwealth Caribbean Heads of Governments Conference which had assisted in formulating the plans for establishing the Caribbean Free Trade Association, but had indicated then that the timing was not opportune for assuming membership in CARIFTA. When

^{15/} Reference can be made to practice in the European Economic Community, the Latin American Free Trade Area, the Central American Common Market, the Andean Group, the East African Common Market. The international economic groupings do not make provision for non-member states to be admitted as observers because of the need, among other things, to preserve the Confidentiality of their highly delicate negotiations and discussions on both intra-regional and extra-regional matters.

/later the

later the indication was given that negotiations for its accession should commence, the Council of CARIFTA invited that country to participate in its working sessions. The negotiations between Belize and the CARIFTA members were conducted within the framework of Council sessions as a particular agenda item, taken along with the other business of the Council. There is no doubt that in this way Belize gained an intensive insight into the interpretation and operation of the CARIFTA Agreement, and obtained a fuller understanding of the points of view and vital interests of individual member countries. On the other hand, the CARIFTA member countries were able to assess the needs of Belize, the benefits that might be gained on both sides, and the transitional arrangements that might be appropriate.

19. The other cases concerned countries that had no previous contact with the CARIFTA process, Surinam and the Netherlands Antilles. The reaction of the Council regarding countries that were not members of the Heads of Governments Conference was understandably quite different.^{16/} Also, the consensus was that the CARIFTA arrangements should be made to operate smoothly before accession of non-Commonwealth Caribbean countries is negotiated. It was not until its Thirteenth Session the CARIFTA Council decided that thereafter applications for formal relationships to CARIFTA by non-members of the Heads of Governments Conference would be considered. Against this background it was inevitable that when there was the indication of interest by Surinam and the Netherlands Antilles in developing a working relationship with CARIFTA, a different formula had to be adopted. The decision was to establish a special relationship designated "Liaison

^{16/} The Heads of Governments Conference is the supreme body above the Council of Ministers.

/Status" to

Status" to enable Surinam and the Netherlands Antilles to meet their needs of obtaining the specialised legal, social and economic information about the integration process, that they need.17/

THE CARIFTA PRECEDENT - "LIAISON STATUS"

20. Through the arrangement of "Liaison Status", these countries have the facility to consult on a continuing basis with the Secretariat and with the Council of Ministers. However, though they do not attend regular Council sessions, special recognition has been given to their status as for example at the inauguration of the Caribbean Community.

17/ This note is concerned primarily with relationship of other countries to the CARIFTA/CARICOM group. To complete the picture however it might be noted that the Council of Ministers also examined relationships with non-governmental regional bodies, and inter-governmental bodies both regional and non-regional. The decision was that observer status as commonly understood would be granted to two inter-governmental regional organizations - the East Caribbean Common Market and the West Indies Associated States Council of Ministers. In more limited form observer status would be granted to the Caribbean Development Bank and the Caribbean Office of the Economic Commission for Latin America, these cases being conditional on the participant being the President or Vice President, or Director or Deputy Director respectively, so long as these posts are held by nationals of CARIFTA/CARICOM countries.

As regards non-governmental regional organizations the decision was to establish a JOINT CONSULTATIVE GROUP consisting of four representatives each from the Caribbean Congress of Labour, the Caribbean Consumers Committee and the Caribbean Association of Industry and Commerce. This body meets annually with the Council of Ministers to exchange views on the progress and problems of the regional integration movement. The Group may also participate in some technical meetings, consult on a continuing basis with the Secretary General and can make recommendations on any matter involving the functioning of the Caribbean Common Market.

/21. In

21. In its operation the Representative of the non-CARIFTA/CARICOM Government can conduct discussions at Ministerial or at Secretariat level as the circumstances may require. The procedures imply that a meeting between the Representative and the CARIFTA/CARICOM Ministers would be convened on request for the purpose of discussing any aspect of closer economic relationship with the CARIFTA/CARICOM countries. For convenience, such meetings would be scheduled to take place prior to CARIFTA/CARICOM meetings when the Ministers will have gathered. Initially the scope of discussions might be wide-ranging, narrowing later to specific points of negotiation.

22. It is implicit in this arrangement that negotiations on accession would not be conducted within the normal agenda of CARIFTA/CARICOM sessions. However the non-member state Representative may participate in the deliberations of technical committees and working groups subject to normal considerations regarding confidentiality of the proceedings.

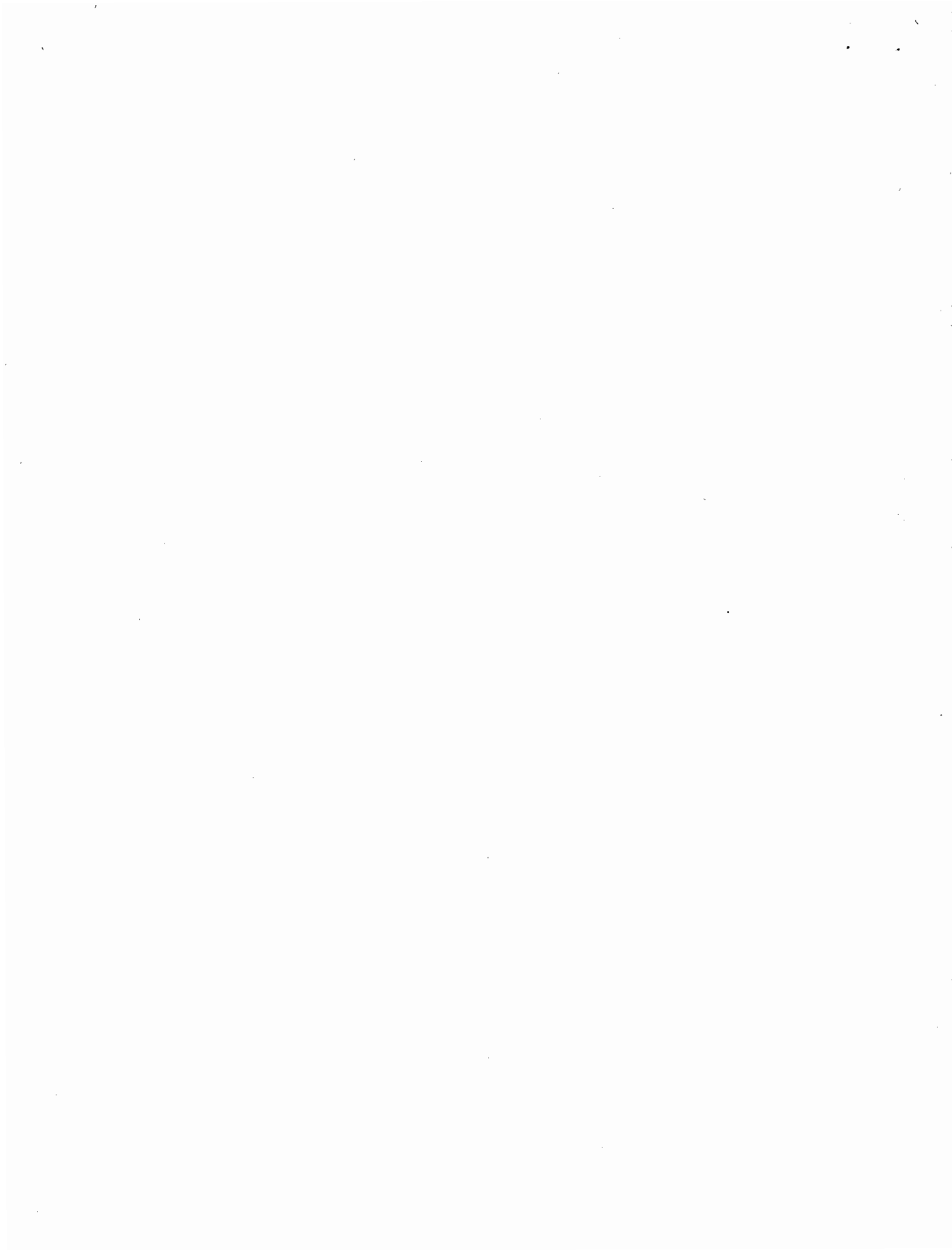
23. There is no doubt that an important utility of Liaison status for the non-CARIFTA/CARICOM countries, is the scope it offers them for ascertaining on a "no commitment" basis, the most appropriate form of association with the CARIFTA/CARICOM group. Within this arrangement careful assessment can be made of the transactions possibilities, the actual sectors in which there can be beneficial functional co-operation, and the desirable areas of policy co-ordination. It also allows time for understanding and appreciating the points of views of the other countries and the backgrounds from which they derive. In short, it is a pragmatic Caribbean creation to meet the unique, and extraordinary situation faced by countries in the Caribbean.

24. While the Council decisions taken under CARIFTA Agreement Article 32 made provision for Liaison Status with CARIFTA, no such provision yet exists in relation to CARICOM. However, the requirements for continuity from CARIFTA to CARICOM will probably make it necessary for the Ministerial Council in due course to ratify and transfer to CARICOM several decisions previously taken in the CARIFTA context; very probably included among such decisions would be those regarding Liaison Status, even if only on a transitory basis.

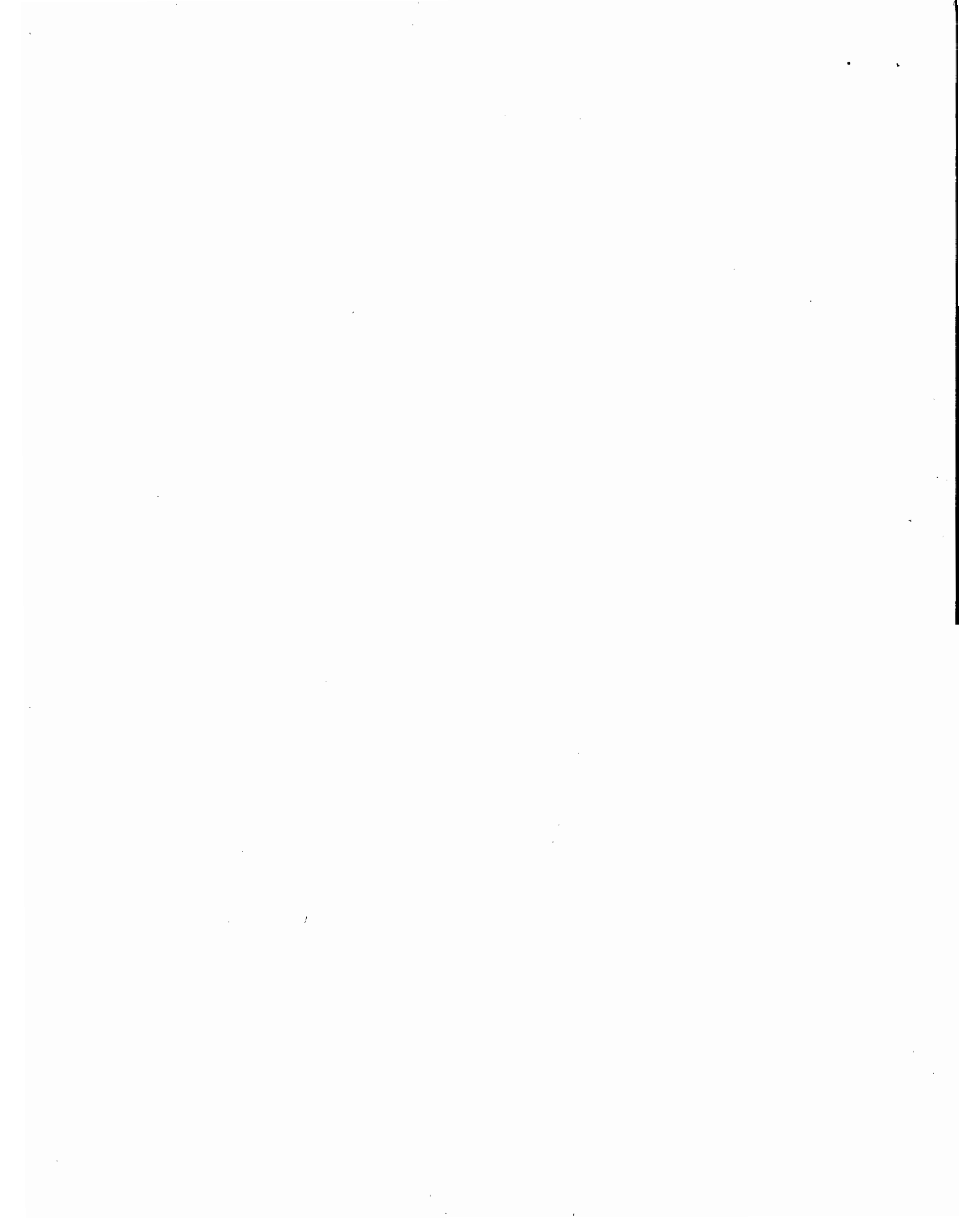
/25. In

25. In view of the scope it offers for the countries of the Caribbean to establish contacts which by history they have been denied, there is a very strong case for retaining it as an initial contact relationship in the CARICOM context. The logic of the argument suggests that as both the CARICOM Treaty and Common Market Agreement provide for full membership or associate membership, and since the option needs to be stated in the application, it would follow that the negotiations that might develop from Liaison status would be directed to one of these two forms of membership, or some combination of the two.

26. Several Caribbean countries have already endorsed the long-term policy objective of working towards full membership of all the Caribbean islands and Surinam in a Caribbean Community. It is not inconceivable therefore that progress could be made by a series of steps as the obstacles are gradually removed; perhaps through Liaison Status and Associate Membership to full membership, in either or both the Community and the Common Market.



A P P E N D I X



Legal Provisions regulating to Membership,
accession and association

1. CARIBBEAN FREE TRADE ASSOCIATION AGREEMENT

Article 32

Joining Association

1. Any Territory, though it be not a signatory hereto, may participate in this Agreement, subject to prior approval of the Council of the Territory's participation in this Agreement on terms and conditions decided by the Council. The instrument duly signifying the agreement of the Government of the Territory to its participation in this Agreement on the terms and conditions decided as aforesaid shall be deposited with the Government of Antigua which shall notify all other Member Territories. This Agreement shall have effect in relation to the participating Territory as, and from the time, indicated in the Council's decision.

2. The Council may pursuant to any decision thereof in that behalf seek to procure the creation of an association consisting of Member Territories, and any other Territory, union of Territories, or international organization, and embodying such reciprocal rights and obligations, common actions and special procedures as may be appropriate.

Article 33

Withdrawal

Any Member Territory may withdraw from participation in this Agreement provided that the Government thereof gives twelve months' notice in writing to the Government of Antigua which shall notify the other Member Territories.

/2. TREATY

2. TREATY ESTABLISHING THE CARIBBEAN COMMUNITY

Article 2

Membership

1. Membership of the Community shall be open to:

- (a) (i) Antigua
- (ii) Bahamas
- (iii) Barbados
- (iv) Belize
- (v) Dominica
- (vi) Grenada
- (vii) Guyana
- (viii) Jamaica
- (ix) Montserrat
- (x) St. Kitts-Nevis-Anguilla
- (xi) Lt. Lucia
- (xii) St. Vincent
- (xiii) Trinidad and Tobago

- (b) any other State of the Caribbean Region that is in the opinion of the Conference able and willing to exercise the rights and assume the obligations of membership in accordance with Article 29 of this Treaty.

2. States listed in paragraph 1(a) of this Article the Governments of which sign this Treaty in accordance with Article 22 and ratify it in accordance with Article 23 shall become Member States of the Community.

Article 22

Signature

This treaty shall be open for signature on the 4th July, 1973 by any State mentioned in paragraph 1(a) of Article 2 of this Treaty.

Article 29

Accession to the Treaty

1. Any State or Territory of the Caribbean Region may apply to the Conference to become a member of the Community and may, if the Conference so decides, be admitted to membership in accordance with paragraph 2 of this Article.

/2. Admission

2. Admission to membership shall be upon such terms and conditions as the Conference may decide and shall take effect from the date on which an appropriate instrument of accession is deposited with the Secretariat.

Article 30

Associate Membership

1. Any State which in the opinion of the Heads of Government Conference is qualified for membership of the Community in accordance with paragraph 1(b) of Article 2 of this Treaty may, upon application to the Conference for associate membership of the Community, be admitted as an associate member of the Community in accordance with paragraph 2 of this Article.

2. On an application made under paragraph 1 of this Article the Conference shall determine the conditions under which the applicant State may be associated with the Community.

Article 31

Saving

1. Member States that are not also members of the Common Market shall not be entitled to participate in the decision taken under the Treaty relating to the Common Market.

2. Decisions taken under this Treaty requiring such action shall be subject to the relevant constitutional procedures of the respective Member States.

3. Where necessary, Member States undertake to take steps as expeditiously as possible to give full effect in law to all decisions of the organs and institutions of the Community which are binding on them.

4. Member States shall not participate in decisions with respect to the subject of which they do not possess the necessary competence.

3. CARIBBEAN COMMON MARKET AGREEMENT

Article 2

Membership

1. (a) Membership of the Common Market shall be open to:

- (i) Antigua
- (ii) Barbados
- (iii) Belize
- (iv) Dominica
- (v) Grenada
- (vi) Guyana
- (vii) Jamaica
- (viii) Montserrat
- (ix) St. Kitts-Nevis-Anguilla
- (x) St. Lucia
- (xi) St. Vincent
- (xii) Trinidad and Tobago

(b) any other State of the Caribbean Region that is in the opinion of the Conference of Heads of Government (hereinafter referred to as the "Conference") mentioned in Article 6 of the Treaty establishing the Caribbean Community, able and willing to exercise the rights and assume the obligations of membership in accordance with Article 65 of this Annex.

2. States listed in paragraph 1(a) of this Article the Governments of which are parties to the Treaty establishing the Caribbean Community (hereinafter referred to as the "Treaty") shall become members of the Common Market.

Article 65

Accession

1. A State mentioned in paragraph 1(b) of Article 2 of this Annex may become a Member of the Common Market on such terms and conditions as the Conference may determine.

2. Any such State shall deposit on or before a date appointed by the Conference an instrument of accession with the Secretariat which shall transmit certified copies to the Government of each Member State.

3. Upon such deposit the State shall become a member of the Common Market on the appointed date.

/Article 72

Article 72

Associate Membership

1. Any state which in the opinion of the Conference is qualified for membership of the Common Market in accordance with Article 2.1(b) of this Annex may, upon application to the Council for associate membership of the Common Market, be admitted as an associate member of the Common Market in accordance with paragraph 2 of this Article.

2. On any application made under paragraph 1 of this Article the Conference shall determine the conditions under which the applicant state may be associated with the Common Market.

