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# THE CARIBBEAN FREE TRADE ASSOCIATION

RICHARD L. ABBOTT\*

The Agreement establishing the Caribbean Free Trade Association — CARIFTA — was signed by Trinidad, Guyana, Barbados and Antigua on May 1, 1968. Certain members from the Windward and Leeward Islands followed several weeks later, and Jamaica adhered to the treaty on August 1, 1968. Thus, CARIFTA now includes all the original Commonwealth Caribbean territories except the British Virgin Islands, the Bahamas and British Honduras. The present membership includes:

Jamaica	Trinidad and Tobago
Barbados	Guyana
Dominica	Grenada
Montserrat	St. Lucia
St. Vincent	Antigua
St. Kitts-Nevis-Anguilla	

To avoid confusion, it should be remembered that this treaty is the second attempt at a CARIFTA agreement. The first was the Dickenson Bay Agreement of December, 1965, establishing a Caribbean Free Trade Association to take effect in 1968. Signed by Antigua, Barbados and Guyana, it was drawn almost verbatim from the 1960 Agreement establishing the European Free Trade Association (EFTA). The second or current CARIFTA Agreement consists of thirty nine articles, six annexes, and two protocols on Sugar and Agriculture; it also bears the EFTA stamp. However, several significant changes and differences give CARIFTA a more realistic framework and pay deference to the political and economic environment of the Caribbean area.

## BACKGROUND AND REFERENCE SOURCES

Considering the futile efforts of the past to unify the various Commonwealth Caribbean territories into some form of viable political or economic unit, the execution of the CARIFTA treaty is a significant step in the economic progress of the many political entities of the Caribbean. It is not the purpose of this paper, however, to provide detailed back-

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ground leading to the establishment of CARIFTA; this task has already been performed. It will suffice to alert the reader to the existing works and to the continuing efforts on this phase of the subject.

For an overall view of the history, trends and currents of thought in the economic integration efforts underlying CARIFTA, the starting point is a recent study by Aaron Segal, *The Politics of Caribbean Economic Integration* (Special Study No. 6, Institute of Caribbean Studies, University of Puerto Rico, 1968). With the assistance of the Ford Foundation, Mr. Segal has made an exhaustive examination of the background and the political-economic environment in which economic integration must take place, and of the present, possible and probable future status of the integration movements in the Caribbean. Mr. Segal's work contains a thorough bibliography, referring the reader to voluminous and valuable works in the field. Three such sources, however, deserve specific mention: Bayitch, *Latin America and the Caribbean—A Bibliographical Guide to Works in English*, University of Miami Press (1967); Brewster & Thomas, *The Dynamics of West Indian Economic Integration*, University of West Indies, Mona, Jamaica (1967); and McIntyre, *Aspects of Trade and Development in the Commonwealth Caribbean*, *Economic Bulletin for Latin America*, October, 1965. These works, and Mr. Segal's book provide basic information and material of legal and quasi-legal nature relating to CARIFTA and its origins. The Treaty and Annexes A to F are found in *International Legal Materials*, September, 1968. The Sugar and Agricultural Protocols can be obtained upon request from the publisher, the American Society of International Law, Washington, D. C.

The Institute of Caribbean Studies mentioned above has sponsored significant efforts in the field, as has more recently the Institute of Social and Economic Research of the University of West Indies, Mona, Jamaica. Since these Institutes are in the mainstream, developing thoughts and concepts which will be accepted, rejected or adopted in forging the future progress of the Caribbean economy, their efforts should be closely followed. Also, of course, the efforts of working groups of CARIFTA and international agencies, such as the Economic Commission for Latin America (ECLA).

## THE INTEGRATION APPROACHES UNDERLYING CARIFTA

The setting and the integration strategies out of which the CARIFTA movement has emerged must be considered first. Geographically, the Caribbean includes the Greater Antilles islands of Cuba, Haiti,

the Dominican Republic, and Puerto Rico; the Lesser Antilles, and the islands of Aruba, Curacao, Trinidad and Tobago—all the principal islands of the Caribbean Sea. British Honduras, Guyana and Surinam are also considered to be in the Caribbean since historically and culturally, these countries have been more closely identified with the Caribbean islands. Thus defined, the Caribbean consists of a total land area of 233,609 square miles (about the size of Colombia), an estimated 1967 population of 24 million, and a median per capita income below U.S. \$400.

The political panorama is indeed complex. There are seven independent nation states: Barbados, Guyana, Jamaica and Trinidad and Tobago (all members of the British Commonwealth), Cuba (in the Communist bloc), the Dominican Republic and Haiti. The seven Leeward and Windward Islands (Antigua, Dominica, Grenada, Montserrat, St. Kitts, St. Lucia and St. Vincent) are individually self-governing "free associated states" of Britain. British Honduras, whose political destiny is anything but settled, is presently an internally self-governing British colony. Puerto Rico is a "free associated commonwealth" of the United States. The Netherlands Antilles islands and Surinam are internally self-governing and autonomous members with Holland of the Tripartite Kingdom of the Netherlands, and the French Antillean islands of Guadeloupe and Martinique are overseas departments of France. Eighty-two percent of the population of the Caribbean are citizens of independent Caribbean states, 10% are citizens of the United States, 2% of France, 4% of Britain, and 2% of the Kingdom of the Netherlands.

On the economic side, intra-regional trade accounts for little of total Caribbean trade. In 1964, for example, it was around \$200 million, approximately 4% of the total. However, this intra-regional trade has increased substantially in recent years, although not as rapidly as total Caribbean external trade. The member territories of CARIFTA form a small area characterized by low levels of development, high rates of population growth and unemployment, with economies very dependent on the export of primary commodities (sugar, bananas, citrus, bauxite and crude petroleum) to metropolitan areas. CARIFTA territories comprise an area of 91,000 square miles, Guyana alone accounting for 83,000 square miles, and a total population of less than five million, Jamaica accounting for nearly two million. Average per capita income in the region varies from U.S. \$630 in Trinidad and Tobago and U.S. \$460 in Jamaica to U.S. \$240 in the Windward and Leeward Islands. Historically, trade among the member territories has been minimal, the primary lanes of commerce being between the Caribbean entities and Canada, Britain

and the United States. As is obvious from a quick glance at a chart of the Caribbean, the member territories are geographically scattered in a fashion which is anything but conducive to economic integration.

Under such a potpourri of conditions, it is not surprising that positive economic integration steps have lagged in the Caribbean. However, the concept of integration is not new, as witnessed by the hapless West Indies Federation which existed from 1958 to 1962. In view of past experiences and the absolute necessity for some form of pooling of the limited economic capacities of the Caribbean entities, there have emerged three distinct approaches to economic integration in the Caribbean. These must be understood if CARIFTA is to be seen in its proper perspective.

In the general sense, economic integration is dually defined as: (1) a process to abolish discrimination between economic units belonging to different national states, and (2) a state of affairs in which there is an absence of discrimination between national economies. It may take any of the following forms: (1) free trade area, (2) customs union, (3) common market, (4) economic union, and (5) complete economic integration. Each of the five forms has distinguishing characteristics, and each entails a certain degree of economic involvement and loss of sovereignty by the members.

In a free trade area, tariffs and quantitative restrictions upon commodity movements between the member countries are abolished, but each member retains its own tariff structure against non-members. A customs union involves the characteristics of the free trade area, with the addition of equalization of tariffs in trade with non-members. In a common market, trade restrictions are removed as in the free trade area and customs union, and restrictions on factor movements are eliminated. An economic union is one step higher, with the suppression of restrictions on commodity and factor movements being combined with some harmonization of national economic policies, so as to remove discrimination resulting from disparities in these policies. Lastly, total economic integration encompasses unification of monetary, fiscal, social and counter-cyclical policies under the aegis of a supra-national authority whose decisions are binding upon the member states. Each form represents a certain level of achievement toward multilateral free trade, which, in theory, is the ultimate goal of all effort in economic development.

The arguments for economic integration apply par excellence to the Caribbean. The tiny national markets of the Caribbean cannot support large scale manufacturing, such as petrochemicals, aluminum, and steel, hence industrial import substitution beyond a limited range of durable

and non-durable consumer goods is precluded. The Caribbean entities are classic examples of small, open economies with limited national resources, heavily dependent on imports and exports, and burgeoning populations. In this setting, each Caribbean entity has one of three basic options: (1) go it alone, exploiting what few natural advantages it may have, (2) seek an economic integration formula with one or more rich countries so as to guard the nation against polarization, or (3) attempt to organize a regional or subregional economic integration scheme, bearing in mind that alignment with a non-Caribbean power has been the dominant historical theme. In the current discussion of Caribbean regionalism there is virtual unanimity that economic integration should not—at this point—extend to political integration. This is rejected on grounds of desirability and practicality, and supported in fact by the failure of the West Indian Federation.

#### THE APPROACH OF CODECA

The Caribbean Economic Development Corporation (CODECA) is an autonomous agency established by the Puerto Rican Government in 1965 to succeed the defunct Caribbean Organization. CODECA sees little advantage in regional preferential trade arrangements, and prefers limited specialization in technical services not readily available at the national level. A political and economic *status quo* in the Caribbean is tacitly accepted, including prevalence of external over regional economic integration. With a geographic perspective of the entire Caribbean, it seeks to organize regional functional cooperation and improve statistical services, national accounting, and coordinated technical assistance. It also advocates a Caribbean Investment Corporation (CARINCO) based on subscriptions by member governments and capable of engaging in multinational public and private sector investments. Its basic objective is to provide direct and useful experience of limited functional tasks with low political content — a “learn to crawl before one walks” strategy. CODECA’s approach, interestingly, is comparable to that pursued by ECLA in Central America during the 1950-1958 period preceding the Central American Common Market.

#### THE DICKENSON BAY AGREEMENT APPROACH

In December 1965, the Governments of Barbados, Antigua and Guyana signed the Dickenson Bay “Agreement Establishing the Caribbean Free Trade Association.” Endorsed by the Chambers of Commerce and Industry of the Commonwealth Caribbean, the Dickenson Bay Agreement provided for a modest and gradual elimination of tariffs and other trade

restrictions requiring minimum sacrifice of political sovereignty and offering little room for expansion of the integration task. Scheduled to come into effect in 1968, it included escape clauses to protect against undue deflection of trade and balance of payments difficulties, prohibitions of export duties and restrictive business practices, and placed a ceiling on incentive legislation to attract industry, i.e., no new incentives would exceed the maximum incentives currently offered by any member. Quantitative restrictions would be eliminated and elaborate regulations governed the definition of the origin of products eligible for free trade.

The Dickenson Bay CARIFTA was to be managed by a Council in which each member would have one vote. Council decisions and recommendations required either a unanimous or majority vote, depending upon the matter in question. The preamble declared that the objective of elimination of barriers to trade would best be achieved by the immediate establishment of a free trade area and the ultimate creation of a customs union and a viable economic community for all the Caribbean Territories, but there was no procedure established for dealing with additional requests for membership and no provisions for transforming the free trade area into a customs union. It appeared to be designed principally to liberalize trade without damaging established industries, to divert trade away from Trinidad and Tobago, and to provide a basis for broader West Indian negotiations.

It was the feebleness of the Dickenson Bay approach to CARIFTA that constituted its principal defect. It provided members with a marginal preferential advantage against other producers but promised few tangible economic benefits; it also showed the least capacity to produce either economic or political union. It was powerless to deal with the risk of economic polarization, except for the various escape clauses enabling a member unit to withdraw tariff concessions previously granted. It also implicitly guarded against polarization by *de facto* exclusion of the more industrialized and developed islands from membership.

#### THE APPROACH DEVELOPED BY UWI

In 1965, the governments of Jamaica and Trinidad commissioned the University of the West Indies (UWI) to undertake a series of studies concerning economic integration. These were carried out by a group of young economists associated with UWI, and published in 1967. The studies are premised on the concept of a subregional, economic community of the Commonwealth Caribbean, and focus on regional rationalization of existing and future production through planned economic complementarity. The surveys emphasize planned pooling of

economic resources at the regional level in order to accomplish a dual objective of creating a larger internal market and enhancing external bargaining for the Commonwealth Caribbean. As these proposals necessitate an implied or explicit degree of supernational authority, they contain a serious flaw in failing to analyze the political arrangements and processes required to achieve a sophisticated degree of economic integration.

To insure equitable distribution to participants of the benefits under the UWI approach, there are general proposals to overcome the danger of polarization, including a regional development approach. This approach seeks to maximize economic gains from integration to insure that each unit is better off inside than outside the region and the use of specific mechanisms to redistribute benefits in favor of the less developed units. These mechanisms include: (1) freedom of movement of factors of production, (2) export substitution whereby a more developed country in the region would refrain from expanding production of a primary product where less-developed units had a competitive advantage, (3) positive promotion of agricultural exports from less-developed countries, (4) harmonization of incentives with discrimination in favor of the less-developed areas of the region, (5) longer period of transition in freeing trade for less-developed units, (6) more generous exception clauses for sensitive industries in less-developed countries, and (7) industrial planning and complementarity.

Under the UWI approach, regional integration is to be administered by a series of regional institutions, but lines of executive authority for such institutions are not given due consideration. A Regional Commission for Economic Integration would be responsible for: (1) research in industry and agriculture for integration activities, (2) establishment and administration of terms and conditions under which an integration activity may come into existence, (3) effectiveness of supporting policies to be pursued by member countries in relation to integration activity, (4) formalizing administrative and other criteria to guide location of industries, (5) harmonization of existing incentive legislation, (6) coordination of capital markets activity to reduce the outflow of funds and to organize a common regional market, (7) establishment of a customs union including a common external trade policy, conversion of bilateral trade agreements into regional arrangements, renegotiation of preferences, a common policy on export promotion, and a common customs administration.

A regional monetary and payments union would be created to maintain a policy of regional credit, exchange rates and restrictions, and pooled

external reserves. A Regional Development Bank would provide capital funds for regional development and harmonize existing national development finance institutes. A Transport and Allied Services Commission would harmonize freight and other transport charges, coordinate national regulations on transport, and form a regional insurance service and "invisibles" pool. The panoply of regional institutions proposed also included a Committee on Price Stabilization and Coordination to harmonize national policies on income movements, control of inflation and agricultural pricing, a Regional Commission on the Movement of Persons to study the feasibility of population transfers, and a Regional Monopolies Commission to investigate and formulate policy regarding pricing of commodities.

There is heavy emphasis on the use of external aid, especially in connection with the Regional Development Bank, the rationale for which grew out of the 1966 Tripartite Economic Survey of the Eastern Caribbean, jointly sponsored by Britain, Canada, and the United States.

The Tripartite Survey concentrated on regional common services for industrial development and promotion, market research and development, fisheries, forestry and industrial minerals, agricultural development and research, and technical services in land use, health, engineering, town planning, tax collection, statistics, meteorology, and public administration. Strong emphasis was placed on the advantages of a joint tourist promotion campaign to reap high benefits in relation to expenditures. The Survey further recommended establishment of a regional development agency with a Technical and Commercial Services Division and a Development Bank Division. The development bank would solicit assistance from international agencies, such as the World Bank, whose minimum loan requirements are normally too large for any of the islands. Both Canada and the United States pledged their financial support to the proposed bank.

The UWI approach also has deficiencies. Missing are the factors of national interest and the politics of regional economic integration. The principal beneficiaries appear to be Jamaica and Trinidad where major regional industries would be concentrated, although possibly footwear and textiles would be offered to smaller members. The principal risks appear to rest on Barbados whose infant industries would be subjected to a customs union with Jamaica and Trinidad. Barbados would also be required to extend preferences for goods likely to be produced initially at higher costs elsewhere in the region. As Barbados is a net food importer with no additional acreage available for sugar cultivation, regional agricultural import-substitution and export-substitution are of marginal value. Even the proposed regional off-shore fishing industry

would have been centered on Guyana or Trinidad, closer to the rich fishing deposits near the South American continental shelf. The movement of persons, the principal necessity of supremely overcrowded Barbados, is specifically rejected. Finally, Barbados had to subject its sovereignty to the supranational sovereignty imparted to a series of powerful regional commissions.

## PURPOSES AND OBJECTIVES OF CARIFTA

The spectrum of integration under CARIFTA is set forth in Annex A, which, in accordance with Article 36, is an integral part of the Agreement. This Annex is the complete text of the earlier "Resolution Adopted by the Fourth Heads of Government Conference," concerning which some background is necessary.

As can be gleaned from the material above, practical pressures were building in the direction of taking positive action on the issue of integration. Concrete progress was made at the Fourth Heads of Government Conference on Regional Integration in Barbados in October 1967, attended by representatives of the British Commonwealth countries in the Caribbean. The Conference dealt directly with the problem of modifying the Dickenson Bay Agreement, so as to enlarge the scope of integration, obtain broader membership, and ensure equitable distribution of the benefits of integration. A critical issue under consideration was the Caribbean Development Bank (CDB), proposed by the United Nations Development Programme (UNDP) and a direct outgrowth of the 1966 Tripartite Survey sponsored by the United States, United Kingdom and Canada. Although the concept of the CDB was accepted in principle, it was not made part of the Resolution due to the impasse created by Jamaica's opposition to the proposed location of the CDB in Barbados.

Notwithstanding the failure to resolve the CDB issue, the Ministers agreed upon the Resolution Adopted by the Fourth Heads of Government Conference on Regional Integration. This Resolution was made an integral part of the CARIFTA agreement when it was drafted in final form some six months later, hence is a vital document, setting forth the basic and long-term hopes of the member governments. The eleven points laid down in the Resolution are set forth below verbatim. In reading them, one should be mindful of the UWI and Dickenson Bay approaches:

1. Free Trade should be introduced with respect to all intra-Commonwealth Caribbean trade by 1st May, 1968, subject to a list of reserved commodities which would be freed within a five-year period for the more-developed countries and within a ten-year period for the

less-developed countries; subject to special provisions for appeal by a less-developed Territory to the governing body of the Free Trade Area for further extension in any case where serious injury may be done to a territorial industry.

2. The Governments should approach the task of freeing of trade, by using the CARIFTA Agreement as a basis with suitable modifications.

3. The Commonwealth Caribbean Countries shall immediately take steps to initiate studies to determine whether the objective of achieving trade expansion to the mutual benefit of the member states can be facilitated by the establishment of a common external tariff in whole or in part.

4. The principle should be accepted that certain industries may require for their economic operation the whole or a large part of the entire regional market protected by a common external tariff or other suitable instrument. The location of such industries and the criteria to be applied in respect thereof, as well as the implementation of the principle accepted above, should be the subject of immediate study — such study to have special regard to the situation of the relatively less-developed countries.

5. Subject to existing commitments a regional policy of incentives to industry should be adopted as early as possible on the basis of studies mentioned in Resolution 7 below, bearing in mind the special needs of the less-developed countries for preferential treatment, such as soft loans.

6. Marketing agreements for an agreed list of agricultural commodities should be sought to come into effect at the same time as the commencement of free trade and the territories in the region should examine the possibility of restricting imports from extra-regional sources of agricultural products that are produced within the region and are available for satisfying regional demand.

7. The principle of seeking to establish more industries in the less-developed countries should be accepted and the ECLA Secretariat should be asked to undertake feasibility studies immediately with a view to identifying industries which should be located in the less-developed countries and to devising special measures for securing the establishment of such industries in these countries. These studies should be submitted to governments no later than one year after the commencement of free trade.

8. The Commonwealth Caribbean Countries should endeavour to maintain and improve regional carriers to facilitate the movement of goods and services within the region.

9. The Commonwealth Caribbean Countries should agree to negotiate with the Shipping Conference the rationalization of freight rates on extra-regional traffic.

10. The ECLA Secretariat for the Caribbean should be asked to undertake a number of studies, for example, studies on the harmonizing of incentives and the feasibility of establishing certain regional industries.

11. A Committee of Ministers should be set up immediately, functioning as a sub-committee of the Heads of Government Conference, with general responsibility for the establishment of Free Trade Area.

Obviously, many of the points are not legally binding in that no specific treaty obligations have been incurred. Only paragraphs 1, 2, 6 and 11 deal with the immediate goal, already accomplished to a great extent, of establishing a free trade area and eliminating barriers to trade. Nevertheless, the "commitments" are sweeping in scope and reflect adaptation and definite engrafting of much of the UWI thinking upon the approach found in the Dickenson Bay Agreement.

#### OBJECTIVES OF CARIFTA

With the overall purposes defined, the objectives of CARIFTA were laid down in Article 2 of the Agreement. These were:

1. To promote the expansion and diversification of trade in the area of the Association.
2. To insure that trade between member territories takes place in conditions of fair competition.
3. To encourage the balance and progressive development of the economies of the area in keeping with paragraphs 3-10 of Annex A.
4. To foster the harmonious development and liberalization of Caribbean trade by the removal of its barriers.
5. To insure that the benefits of free trade are equitably distributed among the member territories.

Objective 5 and all but the first few words of Objective 3 did not appear in the Dickenson Bay Agreement. In prescribing these skeletal objectives of CARIFTA, and referring to Annex A, there now appear three new and important contributions from the UWI approach: (1) the possible development of a partial or complete common external tariff, (2) harmonization of incentives, and, (3) the implied device of economic plan-

ning necessary to the establishment of regional industries and attainment of equitable distribution of benefits.

### A CAVEAT IN ANALYSIS

In reading the Agreement and attempting to exercise judgment as to its likely import, the reader must be cautious. The text of the CARIFTA Agreement itself remains almost identical to the Dickenson Bay Agreement. To this extent, the earlier approach to a free trade area is intact. But the reader has already seen that Annex A has engrafted many ideas postulated in the UWI approach, thereby creating a hybrid agreement which provides a broader framework for the evolution of CARIFTA into a higher form of integration. The goal of a higher form of integration is demonstrated even in the Preamble, in which the members state their conviction that “. . . elimination of barrier to trade can be best achieved by the immediate establishment of a free trade area which will contribute to the ultimate creation of a viable economic community of Caribbean territories”, calling for “coordinated . . . economic development” to this end. This stands in direct contrast to the Dickenson Bay Agreement, whose Preamble did not call for “coordinated” development and stated the ultimate form to be a customs union — only one rung up the ladder of integration.

As the text of the Agreement has changed very little, comparison to EFTA, which has been operating under almost the same provisions for nearly a decade, is useful. In fact, it would be helpful to read first the excellent and succinct work done by the EFTA Secretariat, *Building EFTA — A Free Trade Area in Europe*, available upon request from the Washington, D. C., office of EFTA. Written in 1966 and revised in 1968, it provides insight into the reasons and thought underlying each article of the EFTA Agreement. In reviewing this work, then comparing EFTA to CARIFTA, the reader will gain a preliminary appreciation of the possible impact of the CARIFTA Agreement.

EFTA was envisioned and drafted for a different set of circumstances; the draftsmanship, not the circumstances, has been transplanted to the Caribbean. It is safe to assume that nowhere in the development of both the Dickenson Bay and CARIFTA Agreements was as much effort expended as with EFTA. And, of course, the transplantation of literal language from the European to Caribbean environment breeds impractical situations, where the intent of one provision simply has little application or utility.

The foregoing, however, is not a harsh criticism. As will be seen,

the CARIFTA Council has been delegated sufficient authority to amend the Agreement as seen fit. The EFTA Agreement provides a well hammered-out framework, and the background and evolution, through EFTA Council decision or recommendation, of its substantive provisions should be borne in mind when divining the future of CARIFTA.

#### ADMINISTRATION OF CARIFTA

The draftsmen of CARIFTA followed the pattern prescribed in EFTA for administration — a simple and flexible institutional framework with sufficient delegation of authority to the working groups, thereby insulating everyday activities from the vagaries of politics.

#### THE COUNCIL

The supreme organ of CARIFTA is the Council, consisting of one representative from each member with one vote. By Article 28, the Council is charged with:

1. Exercising such powers and functions as are expressly conferred upon it by the Agreement.
2. Supervising the application of the Agreement and keeping its operation under review.
3. Considering whether further action should be taken by member territories in order to promote the attainment of the objectives of the Association, and facilitating the establishment of closer links with other countries, unions of countries, or international organizations.

The last responsibility is re-emphasized in Article 30, which provides the Council “. . . shall seek to procure the establishment of such relationships with other international organizations as may facilitate the attainment of the objectives . . .” of CARIFTA. Thus, it can be anticipated that CARIFTA will not only seek and develop relationships for technical assistance, such as with the progenitor EFTA or agencies like ECLA and UNCTAD, but that there will be a constant review of the direction of CARIFTA, i.e., — whether to attract more members, seek membership in other regional groups, or develop sub-groupings within CARIFTA (as is contemplated with the special lesser-developed country status discussed later).

Article 29 specifies that the Council shall prescribe Rules of Procedure both for itself and any other bodies of CARIFTA. These rules may include provisions as to procedural questions which may be decided by majority vote.

The voting rules for the Council set forth in Article 28 (5) differ significantly from the Dickenson Bay Agreement. Council decisions and recommendations are to be made by unanimous vote (abstentions deemed positive votes) except where provided otherwise. Throughout the CARIFTA Agreement, there are specific provisions as to the Council's power to act upon a majority vote, as contemplated in the Dickenson Bay Agreement. There is a material difference, however. A majority is defined as two-thirds in CARIFTA, in contrast to the simple majority in Dickenson Bay. Thus, the power of the Council has been circumscribed in this sense.

Insofar as administration is concerned, the Council's power has been broadened beyond the scope of Dickenson Bay. Article 28 (3) specifically establishes the Commonwealth Caribbean Regional Secretariat, and expressly gives the Council the power to establish other organs, committees, and bodies as deemed necessary. The Council has been given the express power of delegation to the Secretariat and other administrative bodies. Both the rights to establish other organs and to delegate are by majority vote. This is in marked contrast to the unanimity requirement imposed under the Dickenson Bay Agreement. Thus, within the reasonable confines of a two-third majority vote, the Council has the latitude to develop the administrative machinery so critical to the effective operation of CARIFTA.

Article 28 (4) specifies the Council may make decisions ". . . which shall be binding on all Member Territories". The effect of such decisions may be to affect substantial rights of members as will appear in later discussions of specific Articles. Article 34 deals with the subject of amendment of the Agreement and provides . . . "(e)xcept where provision for modification is made elsewhere in this agreement, including the annexes to it, an amendment to the provisions of this agreement shall be submitted to the governments of the member territories for acceptance, if it is approved by decision of the Council". This requirement of ratification is not as sweeping as it appears, since there are many specific provisions concerning the Council's ability to take such action unilaterally. Accordingly, ratification by members should not be necessary for most Council decisions. It is generally accepted today that in the case of multilateral treaties, parties may consent in advance and within prescribed limitations to modifications or amendments made by a majority vote, simple or otherwise. Thus, this significant delegation of power appears proper.

It is interesting to note that in EFTA some members submit certain decisions of the EFTA Council to the legislative assemblies in their own countries in response to national constitutional requirements. In light of this, EFTA Council decisions are agreed to subject to such legislative

approval. Whether such practice is necessary under the constitutions of CARIFTA members is beyond the scope of this work.

### **COMMONWEALTH CARIBBEAN REGIONAL SECRETARIAT**

The Secretariat is the principal administrative organ of CARIFTA. The Council, under Article 29, shall make arrangements for the administrative services required by CARIFTA, and establish the CARIFTA budget. Expenses are to be borne in accordance with the annual budget of the Commonwealth Caribbean Regional Secretariat approved at the Conference of Ministers of Trade in Guyana on February 21 and 22, 1968, or in such other manner as the Council may decide by unanimous vote. This discretion concerning the budget overcomes the defect in the Dickenson Bay Agreement provision that the costs of CARIFTA would be borne equally.

Little was done in 1968 to organize and staff the Secretariat, but 1969 has seen increased activity, such as the formal opening of the Secretariat facilities in Georgetown, Guyana. At the Fifth Heads of Governments Conference in January 1969, a more important and far-reaching step was taken. The Commonwealth Caribbean leaders agreed in principle to the proposal by Barbados that West Indians be permitted to work in the public or civil services of all member territories. The Barbados proposal included the retention and equal treatment of pension rights by public officers transferred from one country to another. Although more study will certainly take place regarding this subject, it is obvious that the taking of such a step will have a powerful impact upon the development of a regional orientation or psychology.

### **CONSULTATION AND COMPLAINTS PROCEDURE**

Article 26 establishes the "General Consultations and Complaints Procedure", by which any member may refer a matter in dispute to the Council. The Council, in turn, has the option of establishing an Examining Committee to be constituted under the requirements of Article 27. These provisions are drawn from the parallel EFTA provisions. The accepted basis for the conduct of business within EFTA is the understanding that the members could consult with each other on any matter concerning the operation of EFTA, its policies and its development. However, recognizing that consultation alone might not suffice in some instances, the members laid down a specific formal procedure for the settlement of disputes. This obviates the need for detailed rules governing EFTA's operations or recourse to judicial institutions to interpret and enforce the Agreement.

Once a matter has been submitted, the CARIFTA Council, by majority vote, shall make arrangements for examining the matter, and if necessary, refer it to an Examining Committee to be constituted in accordance with Article 27. After due consideration, the Council may, by majority vote, make such recommendations as it considers appropriate to resolve the dispute. If the member does not, or is unable to comply with the recommendation, and the Council finds by majority vote that an obligation under the treaty has not been fulfilled, the Council may, again by majority decision, authorize the injured member to deny the culpable member such treaty benefits as the Council considers appropriate. During the pendency of any matter, however, any member may request the Council to authorize, as a matter of urgency, interim measures to safeguard its positions. The Council has the authority to authorize a member to suspend its obligations under such circumstances to the extent necessary, and for an appropriate period.

Since 1960, only four matters have been submitted to the EFTA Council under the parallel procedure, although many problems have been worked out informally. In CARIFTA, available information indicates there have been no such complaints, although there are two simmering disputes of interest. Trinidad accused Jamaica of discriminating against Trinidadian textiles by offering special protection to Ariguanabo, the Jamaican textile mill. Not to be outdone, the Jamaican Manufacturers Association accused Trinidad of certifying certain textile products as being of area origin when in fact they were not.

### **ACCESSION, ASSOCIATION AND WITHDRAWAL**

Article 32 provides that any "territory" may participate subject to prior approval by and upon the terms and conditions (including the effective date) decided by the Council. Since there is no provision for Council action on a majority vote basis, such approval would have to be unanimous, abstentions excepted. "Territory" as used in the Agreement is defined by Article 1 (2) to include "sovereign states internationally recognized."

The question of additional membership is of interest, considering that CARIFTA is oriented only toward the Commonwealth Caribbean. British Honduras — a potential supplier of agricultural products — and the Bahamas and British Virgin Islands are the last potential Commonwealth admittees to the club. In late 1968, British Honduras was reported to be planning to apply for membership; the Bahamas have not yet expressed serious interest. However, the announcement in April, 1969, that the Dominican Republic had applied for membership presents

new dimensions. Whether this membership will materialize remains to be seen since it was also reported last year that the Dominican Republic was seeking entry into the Central American Common Market (CACM), and had obtained the support of El Salvador to that end. Nevertheless, it is easily seen that the situation is anything but static, and that it calls for very close attention if one's interest is more than academic.

The Agreement provides the framework for another possibility — association with other economic integration movements. Although Article 32 (2) apparently did not receive the forethought of its counterpart in EFTA, due to the long-range EFTA objective of union with the European Economic Community (EEC), it nevertheless lays the groundwork. Under the Article:

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.

This provision gives ample latitude to develop practical solutions, subject only to such circumscribing factors as GATT, of which Jamaica and Trinidad are currently members. In any event, ratification by each member of any agreement under this provision is necessary. In 1961, EFTA entered into a special association agreement with Finland. This resulted in a second free trade area which gave Finland the same rights and obligations toward EFTA as its members share. The same trend is evident closer to CARIFTA with the advent of the Andean subregional movement within the Latin American Free Trade Association (LAFTA), presenting the realistic possibility of membership to Trinidad, with its proximity to Venezuela. The interest of the Dominican Republic in both CACM and CARIFTA likewise shows the alternatives available to any country seeking an economic alignment.

In accordance with Article 33, members may withdraw upon one year's notice to the Government of Antigua. This article, copied verbatim from the Dickenson Bay Agreement, may not have a substantial impact if the web of integration is spun beyond the limited objective in Dickenson Bay of a customs union. If the members make any progress whatsoever in the direction of coordinated action and development, as with regional transportation, harmonization of industrial incentives, and establishment of regional industries, the right of withdrawal will prob-

ably be circumscribed if long term commitments or investments have been made.

The Council has been given no power to amend Article 33, in contrast with other substantive articles of CARIFTA. Thus, if in the exercise of its powers under other substantive articles the Council takes action the effect of which is to amend the Agreement and bind the members to obligations of more than one year, there may be a clash with Article 34, which calls for ratification of amendments "(e) except where provision is made elsewhere within the Agreement . . .". This clash may be avoided by submitting for ratification any sensitive Council action creating commitments of more than one year duration. This would, however, defeat the very purpose for which the Council has been given broad powers—facility of administration and insulation of CARIFTA from day-to-day political upheavals. The prospects of withdrawals, it might be noted, are real. Montserrat's Chief Minister stated in early 1969 that his government was seriously considering withdrawal, since his island had little to export, thus making CARIFTA of little value. At about the same time, the Premier of St. Kitts-Nevis-Anguilla stated that his government had entered CARIFTA with the "clear understanding" that the CDB would be established, and was now studying the possibility of withdrawal in view of what was felt to be dismal prospects for its establishment. In Part II of this study there will be further discussion concerning the CDB, but it should be noted here that Jamaica, the holdout, "had promised to make its decision on the bank by May 31, 1969. On May 29, the Jamaican Prime Minister cabled the Heads of all Commonwealth Caribbean Governments that Jamaica is now willing to participate in the bank, subject to the ". . . review of some aspects and provision of certain safeguards . . ." not yet disclosed. This green light by Jamaica is a critical turn of events, for it clears away what could have been an Achilles' heel for CARIFTA.

The degree of political independence varies within the membership, thus consideration is given to succession. Article 35 provides that if a member attains sovereign status and ". . . intimates its willingness to continue to participate . . ." in CARIFTA, the ". . . Agreement shall continue to have effect in relation to it." Notice of continued participation is to be given to the Government of Antigua, the official depository of CARIFTA, which in turn notifies all members. This Article presents an interesting issue. If a non-sovereign member has no obligation to remain with CARIFTA upon attaining sovereignty, of what value is any current commitment under CARIFTA to a potential investor, especially if a plant or other facility is placed in the territory

in question? The answer to this is beyond the scope of this work, and further, it may be of little or no practical consequence, since the principal location for CARIFTA-oriented investment will most probably be in members already with sovereign status. Still, the issue might frustrate the intended "equitable distribution" of benefits to the non-sovereign members, all of which are classified as "less-developed territories" in Annex B(7), hence entitled to special duty treatment under that Annex and under Article 39 discussed later.

## AGREEMENT AS A WORKING DOCUMENT

The initial concept of CARIFTA, drawn from EFTA, remains intact. Nothing has been deleted; indeed, the CARIFTA of today is a hybrid, a free trade area and a framework for attaining a higher level of integration. In Part II of this study the Agreement will be analyzed for this dual impact. First, in implementation of Paragraphs 1, 2, 6, and 11 of Annex A, the Agreement establishes a free trade area, the basic thrust of which is the removal of all obstacles to the free flow of goods, special provisions being prescribed for agriculture. Second, as set forth in the remaining Paragraphs of Annex A, there is a call to action, the effect of which will be to transform CARIFTA into a higher form of economic integration. If these prospective tasks were accomplished, together with the establishment of the Caribbean Development Bank, the end result would be a level of integration approximating economic union, as defined above.

As with EFTA, the primary thrust of the Free Trade Area facet of CARIFTA is the elimination of all obstacles to the free movement of area products. The barriers are essentially of two types: (1) those which affect trade *directly*, principally tariffs and quantitative restrictions, and (2) those which *indirectly* interfere with free trade, such as restrictive business practices, government aids to producers, regulation of the establishment and operation of enterprises, trading practices of public undertaking, and so on. CARIFTA closely follows EFTA in coping with these problems. Articles 4-7, 9, 10, 13-15, annexes B-E and two Protocols on Agriculture deal with the direct barriers, and Articles 12, 17-20, and Annex F with the indirect barriers. These latter provisions are referred to as the "Rules of Competition." Agriculture, an extremely sensitive problem in any integration undertaking, is treated separately for the most part.

Part II, to be published in the next issue, will contain a thorough analysis of the CARIFTA Agreement as a working document. Each

article of the agreement dealing with the elimination of the direct and indirect barriers to trade will be discussed in detail, together with comments on the escape clauses and the broader unfinished tasks prescribed in Annex A.