

NOTE

GRAND ANSE DECLARATION: CAN THE CARIBBEAN COMMUNITY REALISTICALLY INTEGRATE INTRAREGIONAL TRADE AND PRODUCTION WITHIN THE CONFINES OF THE CARICOM TREATY BY 1993?

I. INTRODUCTION

The Caribbean Community (CARICOM) is an international organization comprised of thirteen nations¹ having among several goals² the economic integration of the Caribbean Basin.³ The Basin consists of eleven small island nations and the two mainland nations of Belize and Guyana,⁴ all sharing a common British heritage.⁵ Economic cooperation within the Basin, however, is frustrated by population diversification⁶ and geographical dispersion throughout "vast expanses of sea."⁷

¹ Treaty Establishing the Caribbean Community, July 4, 1973, 946 U.N.T.S. 17, art. 2 [hereinafter CARICOM Treaty]. Membership includes Antigua, Barbados, Bahamas, Belize, Dominica, Grenada, (British) Guyana, Jamaica, Montserrat, St. Kitts-Nevis-Anguilla, St. Lucia, St. Vincent, and Trinidad and Tobago.

² See CARICOM Treaty, *supra* note 1, art. 3. These additional goals are the coordination of foreign policies and the advancement of social, cultural, and technological development.

³ See CARICOM Treaty, *supra* note 1, art. 4. CARICOM created the Common Market as the arm to implement the economic objectives of the Treaty. See Annex to Treaty Establishing the Caribbean Community, July 4, 1973, 946 U.N.T.S. 28, art. 3 [hereinafter Treaty Annex]. Bahamas is the only member of the Community not a member of the Common Market. *Id.* at art. 2; Benn, *The Caribbean Community: The Internal Environment, the Geographical, Economic and Political Legacy*, in TEN YEARS OF CARICOM 27 n.1 (1984). Bahamas does have observer status in the Common Market Council. Caribbean Community Press Release, Feb. 14, 1987, at 1.

⁴ See James, *Where Small Can Be Bountiful*, Fin. Times (London), Aug. 1, 1989, at 8, col. 1.

⁵ See generally Laing, *Independence and Islands: The Decolonization of the British Caribbean*, 12 N.Y.U. J. INT'L L. & POL. 281 (1979); *Integration and Independence: The Development and Role of Sub-regional Organizations in Fostering Effective Sovereignty in the Eastern Caribbean*, 11 CONN. J. INT'L L. 205, 206 (1987) [hereinafter *Integration and Independence*].

⁶ See Kurlansky, *Spirit of Unity Sweeping Caribbean Nations Move to Establish a Single Market*, Chicago Tribune, July 24, 1989, at 3, col. 3. Montserrat, for

Seeking to establish economies of scale,⁸ area nations created CARICOM in 1973.⁹ Members envisioned free intraregional trade and intraregional economic integration¹⁰ as a means of establishing a viable, competitive economic entity.¹¹

A. *The Grand Anse Declaration*

In the most recent development in the Caribbean Community, the leaders of twelve nations issued an ambitious declaration at the Grenada Heads of Government Summit during July, 1989.¹² In a thirteen point agreement, CARICOM leaders endorsed a concrete program to integrate their national economies into a single market by 1993.¹³

Agreement to establish a bona fide common market by 1993 represents a culmination of the efforts of Caribbean nations begun in the 1973 Treaty Establishing the Caribbean Community.¹⁴ CARICOM members contemplated establishing an integrated market in the Caribbean basin in 1973,¹⁵ but realization of this goal thus far has

example, has a population of 11,000 people while Jamaica has more than two million inhabitants. *Id.*

⁷ See Benn, *The Caribbean Community: The Internal Environment, the Geographical, Economic and Political Legacy*, in *TEN YEARS OF CARICOM* 27, 28 (1984).

⁸ James, *Where Small Can Be Bountiful*, *Fin. Times* (London), Aug. 1, 1989, at 8, col. 1. The Prime Minister of St. Kitts-Nevis illustrates both the advantage and disadvantage of economies of scale:

A Jamaican brewery starting with the advantage of a large home market and seeking to enter the St. Kitts-Nevis beer market, would have to make only a minor adjustment to its output. On the other hand, a brewery in St. Kitts-Nevis would probably have to exhaust the entire water supply. . .to make even a marginal impression on the Jamaican market.

⁹ CARICOM Treaty, *supra* note 1, Preamble.

¹⁰ Production integration is the coordination of regional capital and labor resources to provide for efficient production of goods and services. See Blake, *Production Integration: Scope, Limitations and Prospects in CARICOM*, in *TEN YEARS OF CARICOM* 118, 119 (1984).

¹¹ *Cf.* CARICOM Treaty, *supra* note 1, art. 4.

¹² Grand Anse Declaration and Work Programme for the Advancement of the Integration Movement, July 8, 1989 [hereinafter Grand Anse Declaration]. Caribbean Community Press Release, July 8, 1989, at 1 (commenting on and reprinting the text of the Declaration). Bahamas indicated categorically that it was not interested in the formation of a common market. James, *Where Small Can Be Bountiful*, *Fin. Times* (London), Aug. 1, 1989, at 8, col. 1.

¹³ Grand Anse Declaration, *supra* note 12. CARICOM members set different time objectives for implementation of each of the 13 common market measures. The members, however, assigned 1993 to be the absolute deadline for completion of each measure.

¹⁴ See CARICOM Treaty, *supra* note 1.

¹⁵ *Id.* See also *infra* notes 48-50 and accompanying text.

remained elusive.¹⁶ The creation of a single European market in 1992 and concern over the future of preferential trade arrangements with the United States and the EEC, however, accelerated the pace toward realization of the Common Market objective.¹⁷

The Grand Anse Declaration establishes several interrelated procedures designed to implement a common market by 1993. The measures prescribed in the Declaration may readily be described as directed toward either free intraregional trade or regional economic integration.

With respect to free trade, members to the agreement seek to eliminate barriers to intraregional trade,¹⁸ completing a program of deregulation begun in October of 1988. The program will abolish existing qualitative and quantitative trade restrictions among member nations.¹⁹ In conjunction, CARICOM members agreed to move quickly toward customs cooperation and eventually toward customs union.²⁰ Most notably, the declaration affirms commitment to the re-establishment of the CARICOM Multilateral Clearing Facility by December 1990.²¹

¹⁶ See generally Bryan, *The CARICOM and Latin American Integration Experiences: Observations on Theoretical Origins, and Comparative Performance*, in TEN YEARS OF CARICOM 71 (1984). At the Summit, Prime Minister Manely stated, "For years CARICOM conferences were talk shops because people were not into the idea that CARICOM could do something." In fact, responding to CARICOM inaction, St. Vincent and The Grenadines, St. Lucia and Dominica began discussion of forming a political and economic confederation prior to the Grand Anse Declaration. See Kurlansky, *Spirit of Unity Sweeping Caribbean Nations Move to Establish a Single Market*, Chicago Tribune, July 24, 1989, at 3, col. 3.

¹⁷ James, *Where Small Can Be Bountiful*, Fin. Times (London), Aug. 1, 1989, at 8, col. 1. The preferences for export to the EEC enjoyed under Lome III will end in 1990. Caribbean Community Press Release, July 8, 1988 at 15. See also Barker, *CBI v. CARICOM: The Interplay Between Two International Law Instruments*, 11 N.C.J INT'L L. & COMM. REG. 1, 12. Fears of reductions in trade preferences with the United States, however, have subsided as CARICOM members were pleased with the preferences granted under the second Caribbean Basin Initiative (CBI II). Caribbean Community Press Release, May 11, 1989, at 1.

¹⁸ Grand Anse Declaration, *supra* note 12 at 2. This measure is slated for completion by July, 1991.

¹⁹ James, *Where Small Can Be Bountiful*, Fin. Times (London), Aug. 1, 1989, at 25, col. 1. See also Caribbean Community Press Release, June 25, 1988, at 1. In late 1988 nearly all barriers to intraregional free trade were dropped. The Xinhua General Overseas News Service, Oct. 4, 1988.

²⁰ Grand Anse Declaration, *supra* note 12, at 1; See Schanche, *13 Caribbean States OK Proposal for Economic Union*, L.A. Times, July 11, 1989 at 7, col. 1. This pledge is merely a reaffirmation of obligations arising under Article 27 of the Treaty Annex. Treaty Annex, *supra* note 3, art. 27.

²¹ Grand Anse Declaration, *supra* note 12, at 1. See *infra* note 78 and accompanying text.

To further economic integration, members seek to establish a regional capital market for the Caribbean Basin.²² The capital market will serve to increase the movement of capital among CARICOM nations²³ and facilitate increased investment from third countries.²⁴ The three stock exchanges currently operating in Barbados, Trinidad and Tobago, and Jamaica initially will form the core of the regional market.²⁵

The initial means of creating the regional capital market is the cross listing of stocks on the three existing exchanges.²⁶ A committee of central bankers from CARICOM states will determine the procedures for transactions in equities, bonds, debentures, and futures.²⁷ To smooth the transition to a regional capital market, CARICOM leaders also agreed to formulate standardized investment incentives to foster foreign investment in the region.²⁸

The Declaration also calls for CARICOM members to enact legislation to give effect to the CARICOM Enterprise Regime (CER).²⁹ The CER is designed to create special multinational companies capable of integrating national production capabilities.³⁰

To further aid economic integration, members of the Grenada Summit agreement plan to renew efforts to coordinate intraregional transportation.³¹ The agreement provides for the coordination of air

²² Grand Anse Declaration, *supra* note 12, at 1. See also Caribbean Community Press Release, June 22, 1989, at 1. Guyana President Desomond Hoyta originally proposed the capital market initiative. The Reuter Business Report, July 4, 1989.

²³ Caribbean Community Press Release, July 8, 1989, at 1.

²⁴ James, *Caribbean Hopes High for Unified Exchange*, Fin. Times (London), July 19, 1989, at 3, col. 3. The leaders also view the unified stock exchange as a means of stemming the flight of capital from the Caribbean Basin.

²⁵ See Kurlansky, *Spirit of Unity Sweeping Caribbean Nations Move to Establish a Single Market*, Chicago Tribune, July 24, 1989, at 12, col. 1.

²⁶ Grand Anse Declaration, *supra* note 12, para. 5; Caribbean Community Press Release, July 8, 1989, at 5. Presently, each of the existing stock exchanges list its stocks exclusively. James, *Caribbean Hopes High For Unified Exchange*, Fin. Times (London), July 19, 1989, at 25, col. 1.

²⁷ James, *Caribbean Hopes High For Unified Exchange*, Fin. Times (London), July 19, 1989, at 25, col. 1.

²⁸ Grand Anse Declaration, *supra* note 12, para. 1; See Schanche, *13 Caribbean States OK Proposal for Economic Union*, L.A. Times, July 11, 1989 at 7, col. 1.

²⁹ Grand Anse Declaration, *supra* note 12, at 1. See also *infra* note 89 and accompanying text.

³⁰ See Blake, *Production Integration: Scope, Limitations and Prospects in CARICOM*, in TEN YEARS OF CARICOM 118, 126 (1984).

³¹ See Schanche, *13 Caribbean States OK Proposal for Economic Union*, L.A. Times, July 11, 1989, at 7, col. 1. See also Caribbean Community Press Release, June 17, 1988, at 1.

and sea travel among CARICOM states,³² "including the pooling of existing resources of air and sea carriers,"³³ and also calls for free intraregional migration through the elimination of passport and work permit requirements.³⁴

Implementing the Grand Anse Declaration to attain a bona fide common market in the Caribbean Basin by the 1993 deadline³⁵ will prove an arduous task for CARICOM leaders. In light of the failure of past attempts to integrate the economies of the Caribbean,³⁶ accomplishment of this ambitious goal appears questionable.

B. *History and Structure of CARICOM*

Because the Grenada Summit agreement will operate within the confines of the original treaty creating CARICOM,³⁷ it is necessary to examine this organization in detail—its purposes, structure, and related problems—before evaluating the possibility of achieving the 1993 deadline. The successful implementation of a common market by 1993, with the dual goals of free intraregional trade and economic integration in the Caribbean Basin, must proceed from and overcome the troublesome history of the Caribbean Community integration process.

The movement toward Caribbean economic and political integration resulting in CARICOM arose from several short-lived organizations. Preceding Caribbean independence,³⁸ area leaders under direction from the British³⁹ created the West Indies Federation which functioned from 1959 to 1962.⁴⁰ The Federation ultimately failed because of lack of public support⁴¹ and the inability of a primarily political institution

³² Grand Anse Declaration, *supra* note 12, at 2.

³³ *Id.*

³⁴ *Id.* at 2-3.

³⁵ *Id.* at 1.

³⁶ See *infra* text accompanying notes 38-47.

³⁷ Cf. Grand Anse Declaration, *supra* note 12, at 1; James, *Where Small Can Be Bountiful*, *Fin. Times* (London), Aug. 1, 1989, at 8, col. 1.

³⁸ See generally G. LEWIS, *THE GROWTH OF THE MODERN WEST INDIES* 104 (1968) (explaining the Caribbean Commonwealth independence movement).

³⁹ *Integration and Independence*, *supra* note 5, at 210.

⁴⁰ McPetrie, *The Constitution of the West Indies*, 1959 Pub. L. 293, 293. The territories involved were Antigua, Barbados, Dominica, Grenada, Jamaica, Montserrat, St. Christopher-Nevis and Anguilla, St. Lucia, and Trinidad and Tobago.

⁴¹ *Integration and Independence*, *supra* note 5, at 210. One author stated: In 1958, Commonwealth Caribbean citizens at home and abroad heralded the establishment of the West Indies Federation with optimism and hope of new dignity for the region; but the short-lived euphoria yielded to self-

to deal with "economic development on a regional basis."⁴² The collapse of this institution did not, however, undermine the intellectual justification for regional economic integration.⁴³

Seeking to ameliorate the economic problems facing the area,⁴⁴ four Caribbean nations formed the Caribbean Free Trade Association (CARIFTA) in 1968.⁴⁵ CARIFTA sought to eliminate import duties and quantitative restrictions on goods traded among Commonwealth Caribbean states.⁴⁶ However, objections to the disparity of relative benefits created by the operation of the agreement between the Less Developed Countries (LDC's) and More Developed Countries (MDC's) brought the demise of the Association and led to the creation of CARICOM in 1973.⁴⁷

Replacing the CARIFTA agreement, Caribbean nations signed the treaty establishing the Caribbean Community and Common Market on July 4, 1973.⁴⁸ The objectives of the CARICOM treaty are three-fold: to strengthen, coordinate, and regulate trade among member states; to continue economic integration, with the benefits to be

doubt, intraregional recrimination and public . . . fears regarding political union.

Bryan, *The CARICOM and Latin American Integration Experiences: Observations on Theoretical Origins, and Comparative Performance*, in *TEN YEARS OF CARICOM* 73 (1984). Even today, CARICOM leaders are not ready for political union. See Schanche, *13 Caribbean States OK Proposal for Economic Union*, L.A. Times, July 11, 1989 at 7, col. 3.

⁴² Bryan, *The CARICOM and Latin American Integration Experiences: Observations on Theoretical Origins, and Comparative Performance*, in *Ten Years of CARICOM* 74 (1984).

⁴³ *Id.*

⁴⁴ *Id.* at 75. These problems included rising unemployment, adverse terms of trade, price fluctuations of Caribbean exports, and general unfavorable terms for Caribbean products on the world market.

⁴⁵ Demas, *Notes on Aid Programs and Systems and the CARICOM Integration Process*, in *Ten Years of CARICOM* 265 n.1 (1984). In 1968 the CARIFTA Agreement entered into force in Antigua, Barbados, Guyana, and Trinidad and Tobago on May 1; in Dominica, Grenada, St. Kitts, St. Lucia, and St. Vincent, on July 1; and in Jamaica and Montserrat on August 1.

⁴⁶ Agreement Establishing the Caribbean Free Trade Association, Dec. 15, 1965, 772 U.N.T.S. 2 [hereinafter CARIFTA Agreement].

⁴⁷ See *Integration and Independence*, *supra* note 5, at 213. The LDC's became a virtual dumping ground for the products of MDC's. CARICOM members sought to overcome this defect by ensuring LDC's equal benefits from the Common Market. Treaty Annex, *supra* note 3, at art. 3. See *infra* note 49.

⁴⁸ CARICOM Treaty, *supra* note 1; Treaty Annex, *supra* note 3. The treaty went into effect on August 4, 1973. Liverpool, *The Law as a Harmonizing Instrument in the Integration Process in the Caribbean*, in *TEN YEARS OF CARICOM* 238 (1983).

equally shared by MDC and LDC member states;⁴⁹ and to elevate the effectiveness of member states in negotiating third party trade agreements.⁵⁰

The CARICOM Treaty itself consists of two parts. The main treaty establishes the Caribbean Community and its organs, and contains matters relating to the promotion of common services such as transportation, health, culture, education, and travel.⁵¹ The Annex to the Treaty establishes the organs of the Common Market⁵² and provides mechanisms for trade liberalization,⁵³ erection of a Common External Tariff,⁵⁴ and the coordination of economic planning and development.⁵⁵

The Community institutional framework consists of three principal organs. The first, the Heads of Government Conference, possesses the authority to enter into agreements with states and international organizations and "direct policies to be pursued by the Common Market Council."⁵⁶ The second, the Common Market Council, ensures

⁴⁹ CARICOM Treaty, *supra* note 1, arts. 2, 3. The CARICOM Treaty delineates between LDC's and MDC's. MDC states include Barbados, Guyana, Jamaica, Trinidad and Tobago. Except for Bahamas, which is not given a designation, the other states are considered LDC's.

⁵⁰ CARICOM Treaty, *supra* note 1, art 4; Treaty Annex, *supra* note 3, art. 3. The articles cite the following objectives:

(i) the strengthening, coordination and regulation of the economic trade relations. . . in order to promote their accelerated harmonious and balanced development; (ii) the sustained expansion of continuing integration of economic activities, the benefits of which shall be equitably shared. . . ; (iii) the achievement of a greater measure of economic independence and effectiveness of its Member States in dealing with states, [and] groups of states. . .

⁵¹ See generally CARICOM Treaty, *supra* note 1, chs. II, III, and IV.

⁵² See generally Treaty Annex, *supra* note 3, ch. II. The Common Market Council, consisting of one representative from each member state, is the principal organ of the Common Market. *Id.* at arts. 5, 6.

⁵³ *Id.* at ch. III.

⁵⁴ *Id.* at ch. IV.

⁵⁵ *Id.* at ch. VI.

⁵⁶ CARICOM Treaty, *supra* note 1, arts. 7, 8. The powers and duties of the Conference include the following:

- 1) The primary responsibility of the Conference shall be to determine the policy of the Community.
- 2) The Conference may issue directions. . . as to the policy to be pursued by the Council. . . for the achievement of the objectives of the Community. . . .
- 3) The Conference shall be the final authority for the conclusion of treaties on behalf of the Community and for entering into relationships between the Community and International Organizations and States.

the viable operation of the Common Market and is endowed with the duty of dispute resolution.⁵⁷ The third organ of the community, the Common Market Secretariat, performs the administrative tasks pursuant to the Common Market goal.⁵⁸

C. CARICOM Attempts at Achieving Objectives of the Treaty

The goal of promoting intraregional trade is foremost among CARICOM members and one of the primary means to this end is the objective of free trade among CARICOM members.⁵⁹ In 1973 when CARICOM was created, more than ninety percent of intraregional imports by MDC's and eighty percent of imports by LDC's were free of trade barriers.⁶⁰ However, CARICOM members have experienced grave problems in the area of free trade since the early 1970's.⁶¹

The crisis of the first oil shortage created severe pressure on balance of trade payments within CARICOM states.⁶² Jamaica and Guyana, the hardest hit of the CARICOM members, responded by raising quantitative tariffs and establishing embargoes against intraregional

4) The Conference shall take decisions for the purpose of establishing the financial arrangements necessary for meeting the expenses of the Community. . . .

⁵⁷ Treaty Annex, *supra* note 3, art. 7(1)(a)-(e). The Council has power to ensure "efficient operation and development of the Common Market including the settlement of problems arising out of its functioning." Thus, while the Heads of Government set forth the Grand Anse Declaration, the Treaty will entrust the Council with implementation of the Declaration.

⁵⁸ *Id.* at arts. 10, 15. The Secretariat is organized into five divisions: Trade and Agriculture; Economics and Industry; Functional Cooperation; General Services and Administration; and Legal.

⁵⁹ See Treaty Annex, *supra* note 3, art. 21; *The Caribbean Community in the 1980's* 10, 63 (1981). One expert, however, disputes the original intent of the CARICOM Treaty:

The 1973 Treaty did not attempt a fully integrated market for goods in which capital would freely circulate and the right to establish trade and provide services would be unfettered. Immediate objectives were the creation of a partially integrated market for goods, and cooperation in production and development policy.

Emtage, *Notes on the Role of Financial Cooperation the Integration Process*, in *TEN YEARS OF CARICOM* 131 (1984).

⁶⁰ *THE CARIBBEAN COMMUNITY IN THE 1980's* 21 (1981).

⁶¹ *Id.* at 19-26.

⁶² See Bourne, *The International Debt Crisis and Development Strategies in the Caribbean Community*, in *THE CARICOM BULLETIN* 45-47 (1984). See also Reid, *The Evolving Structure of the CARICOM Trade Regime*, in *TEN YEARS OF CARICOM* 102, 106 (1989); CARICOM Secretariat, *Patterns of Intraregional Trade in the Caribbean Community 1973-1983*, in *THE CARICOM BULLETIN* 10, 12 (1984).

imports to protect their foreign reserves.⁶³ Through the 1980's, suffering from an egregious balance of payments problems,⁶⁴ Jamaica devalued its currency to increase exports and the cost of imports.⁶⁵ This action prompted a chain reaction of intraregional import restrictions among CARICOM nations, reducing intra-CARICOM trade by 13.3% in 1983 from the previous year.⁶⁶ The trend continued into 1986 when intraregional trade declined a record 31.8%.⁶⁷ This history demonstrates that despite a common commitment to free intraregional trade,⁶⁸ CARICOM members have often failed to deal effectively with trade restrictions and contain their dynamic escalation.

In these situations, the judicial framework of the CARICOM treaty failed.⁶⁹ Article 21 of the treaty contains a general prohibition of the use of quantitative restrictions on goods of Common Market origin.⁷⁰ Article 28 permits an exception to Article 21 for member countries with balance of payment problems.⁷¹ However, Article 28 of the Treaty also provides for Council intervention designed to establish a unified approach to contain and attenuate the effects of the restrictions among member states.⁷²

⁶³ Reid, *The Evolving Structure of the CARICOM Trade Regime*, in TEN YEARS OF CARICOM 108 (1984).

⁶⁴ See Baker, *CBI v. CARICOM: The Interplay Between Two International Law Instruments*, 11 N.C.J. INT'L L. & COM. REG. 1, 8, 9 (1986). Guyana and Jamaica, for example, could not finance even one week of imports from international reserves in 1983.

⁶⁵ See Baker, *CBI v. CARICOM: The Interplay Between Two International Law Instruments*, 11 N.C.J. INT'L L. & COM. REG. 1, 9 (1986).

⁶⁶ See Baker, *CBI v. CARICOM: The Interplay Between Two International Law Instruments*, 11 N.C.J. INT'L L. & COM. REG. at 8, 9 (1986). The decline in trade was the result of a chain reaction of protectionism that started with Jamaica, followed by Trinidad and Tobago, and later by Barbados. Jamaica's multiple exchange rate contributed to the problem. *Id.* See also *Unconventional Exchange Control Techniques: An Evaluation of Foreign Exchange Auction System in Jamaica*, 14 INT'L BUS. L. 283, 283 (1986).

⁶⁷ In 1987, intraregional trade increased nearly eight percent over the preceding year, ending a five year trend of decline. The Xinhua General Overseas News Service, Oct. 19, 1988. See generally *Patterns of Intraregional Trade in the Caribbean Community 1973-1983*, THE CARICOM BULLETIN 10-12 (1984).

⁶⁸ See Treaty Annex, *supra* note 3, art. 21.

⁶⁹ Cf. Reid, *The Evolving Structure of the CARICOM Trade Regime*, in TEN YEARS OF CARICOM 102-110 (1984).

⁷⁰ Treaty Annex, *supra* note 3, art. 21.

⁷¹ *Id.* at art. 21, 28(1). Article 28(1) states that "Notwithstanding Article 21. . . a member state may. . . introduce. . . restrictions. . . [to safeguard] its balance of payments."

⁷² *Id.* at art. 28(2). This section provides:

Although frequently resorting to restrictions, member states have rarely evoked the Article 28 exemption or its attenuation procedures.⁷³ For example, Jamaica and Guyana have imposed restrictions on CARICOM imports but only Jamaica formally evoked the provisions of Article 28. Nor did CARICOM members evoke the Treaty mechanisms to deal constructively with the restrictions.⁷⁴ Summarizing the failures in this respect, a group of experts stated that the "[t]reaty was . . . honored more in breach than in the observance," yet the community made no attempt "to invoke the dispute settlement machinery set up by the members themselves. . . ."⁷⁵

To help alleviate the balance of payments crisis,⁷⁶ instability in intraregional exchange rates,⁷⁷ and the resulting loss in intra-CARI-

The Council shall examine the situation and keep it under review and may at any time by majority vote make recommendations designed to moderate any damaging effect of these restrictions. If the balance of payments difficulties persist for more than 18 months, . . . the Council shall. . . , by majority vote, devise special measures to attenuate. . . the effect of such measures.

⁷³ Reid, *The Evolving Structure of the CARICOM Trade Regime*, in TEN YEARS OF CARICOM 110, 113 (1983).

⁷⁴ See Emtage, *Notes on the Role of Financial Cooperation in the Integration Process*, in TEN YEARS OF CARICOM 131, 131 (1984). Emtage States:

The practical threat to the Common Market's existing range of benefits derives from the increasingly routine use of measures which the original Treaty clearly envisaged as exceptional and to be reserved for times of genuine emergency.

See also, Reid, *The Evolving Structure of the CARICOM Trade Regime*, in TEN YEARS OF CARICOM 113 (1984).

⁷⁵ Liverpool, *The Law as a Harmonizing Instrument in the Integration Process in the Caribbean*, in TEN YEARS OF CARICOM 245-46 (1984).

⁷⁶ See generally Bourne, *The International Debt Crisis and Development Strategy in the Caribbean Community*, in THE CARICOM BULLETIN 45-48 (1984). The external debt as a percentage of GNP for MDC's within Caricom for 1977 was 18.6 for Bahamas, 11.2 for Barbados, 97.5 for Guyana, 41.5 for Jamaica, and 11.5 for Trinidad & Tobago. The debt crisis did not recess thereafter. The public external debt as a percentage of GNP for CARICOM MDC's in 1982 was as follows: Bahamas 14.2; Barbados 20.7; Guyana 126.5; Jamaica 49.9; Trinidad and Tobago 8.9. Trinidad and Tobago's relatively low debt obligations stem from its status as a net petroleum exporter. For the CARICOM LCD's, the external debt as a percentage of GNP for 1981 was as follows: Antigua & Barbuda 27.9; Dominica 28.8; Grenada 17.7; Montserrat 10.0; St. Kitts 21.0; St. Lucia 13.7; St. Vincent 23.1. See also *supra* note 62 and accompanying text.

⁷⁷ See Emtage, *Notes on the Role of Financial Cooperation in the Integration Process*, in TEN YEARS OF CARICOM 131, 136 (1984). Guyana has devalued its currency once and Jamaica twice. Exchange rate instability has been somewhat ameliorated since all CARICOM states now use the U.S. dollar as an intervention currency. *Id.* See also CARICOM Treaty, *supra* note 1, art. 43. "Exchange rate stability as between. . . [CARICOM members] is necessary to promote the smooth functioning of the Common Market. . . ."

COM trade,⁷⁸ members began operation of the Multilateral Clearing Facility (Facility) in 1977.⁷⁹ This clearing house provided for the multilateral settlement of accounts on credit by which a state's trade payments were determined "by its balance in relation to the system as a whole."⁸⁰ The Facility thus eased the erratic cash flow pressures placed on foreign reserves of member states.⁸¹

The Facility initially operated successfully but began to falter in the early 1980's. Reacting to trade restrictions imposed by Jamaica and Guyana, member states increased the credit limit to U.S. \$100 million to maintain the level of intraregional trade.⁸² Guyana, however, was unable to settle its obligations as they fell due⁸³ and the facility closed in 1983 when it reached its credit limit.⁸⁴ Infusion of credit from third countries was not forthcoming and CARICOM nations soon lost a vital link in the trade regime.⁸⁵ Thus, because of inability to resolve the external debt crisis and utilization of protectionist measures, the CARICOM objective of free intraregional trade never quite came to fruition.

Another objective of the CARICOM treaty is the coordination and integration of economic development.⁸⁶ Economic integration has several rationales. First, economic integration serves to reduce inefficient

⁷⁸ See Emtage, *Notes on the Role of Financial Cooperation in the Integration Process*, in TEN YEARS OF CARICOM 131, 133 (1984). As Emtage stated:

As a result of the deteriorating regional economic situation and its effects on the balance of payments position of several members, it became evident by late 1975 that unless arrangements could be devised to maintain intraregional trade flows, import restriction would be imposed in order to protect dwindling foreign reserves, with quite damaging results for CARICOM.

⁷⁹ *Id.*

⁸⁰ *Id.* at 133, 134. For example, "[a] bilateral surplus with one country [could] be used to offset a bilateral deficit with another, leaving the country with a single credit balance or a debit balance with the facility."

⁸¹ *Id.* at 133.

⁸² *Id.* at 134.

⁸³ The Xinhua General Overseas News Service, July 5, 1986. Guyana owed 60 million U.S. dollars to Barbados alone.

⁸⁴ Emtage, *Notes on the Role of Financial Cooperation in the Integration Process*, in TEN YEARS OF CARICOM 131, 134 (1984).

⁸⁵ *Id.* at 135. In July 1987, CARICOM members initiated the re-opening of the CARICOM Multilateral Clearing Facility. The 75 million dollar credit facility will be funded by CARICOM countries as well as international financing agencies. See The Xinhua General Overseas News Service, July 28, 1987; The Caribbean Community Press Release, June 22, 1989, at 1.

⁸⁶ See CARICOM Treaty, *supra* note 1, arts. 46, 47, 49.

duplication of goods.⁸⁷ It also eliminates the constraints imposed by national market size and resource limitations and promotes economies of large scale production.⁸⁸ In addition, integration furthers the broader goal of intraregional trade promotion since it can lead to import substitution.⁸⁹ Despite the benefits, however, CARICOM members have done little to further this treaty objective.⁹⁰

Integrating factors of production of goods and services among CARICOM members is a principal means of achieving the economic integration objective.⁹¹ Although many viable production integration proposals have been made,⁹² CARICOM members have been reluctant to implement these proposals. Problems over allocation of benefits among participant members and more explicitly political considerations were factors forestalling execution of such plans.⁹³

Pursuant to the provisions of the Treaty,⁹⁴ in 1976 the Ministers of Finance approved the establishment of the CARICOM Enterprise

⁸⁷ THE CARIBBEAN COMMUNITY IN THE 1980's 63 (1981). In this context, duplication means the uneconomic presence of two similar industries within two or more CARICOM states when one industry would prove more efficient.

⁸⁸ CARICOM Treaty, *supra* note 1, at art. 46. The CARICOM treaty envisions economic integration to achieve:

(a) the greater utilization of the raw materials of the Common Market; (b) the creation of production linkages both within and between the national economies of the Common Market; (c) to minimize product differentiation and achieve economies of large scale production; (d) the encouragement of greater efficiency in industrial production.

See also Blake, *Production Integration: Scope, Limitations and Prospects in CARICOM*, in TEN YEARS OF CARICOM 122, 123 (1984).

⁸⁹ See Reid, *The Evolving Structure of the CARICOM Trade Regime*, in TEN YEARS OF CARICOM 103 (1984). Import substitution is simply the substitution of regionally produced goods for imported goods. "The emphasis on import substitution rather than export creation was predicated on the need to use the integration process to make the economies. . . less dependent on the rest of the world. . . ." *Id.* Import substitution also is a means of conserving scarce foreign exchange. Cf. Conesa, *Decision-Making in the Latin American Integration Experience*, in TEN YEARS OF CARICOM 237 (1984).

⁹⁰ THE CARIBBEAN COMMUNITY IN THE 1980's 109 (1981). Cf. Blake, *Production Integration: Scope, Limitations and Prospects in CARICOM*, in TEN YEARS OF CARICOM 122 (1984).

⁹¹ *Id.*

⁹² See generally Blake, *Production Integration: Scope, Limitations and Prospects in CARICOM*, in TEN YEARS OF CARICOM 118, 125-127 (1984). A primary example is the aluminum smelter projects which were to be based on the marriage of alumina from Jamaica and Guyana and energy supplies, namely natural gas, of other CARICOM nations. Other suggested production opportunities have included wood based products such as plywood and prefabricated houses, ceramic products, and fish processing.

⁹³ *Id.*

⁹⁴ See generally, Treaty Annex, *supra* note 3, arts. 45-50.

Regime (CER), advancing the Treaty objective of economic integration.⁹⁵ The CER provided for the establishment of "specially organized multinational companies to undertake activities relating to agricultural, industrial and mineral development." Although all CARICOM members approved the agreement establishing the CER, it was signed by ten and ratified by only one member.⁹⁶ The failure of CARICOM members to implement the CARICOM Enterprise Regime manifests most strikingly the lack of progress in production integration.

Four institutional and market factors have contributed to the problems of production integration in the effort to integrate the economies of CARICOM states. First has been the problem of market mobility, particularly in the area of the movement of capital resources. Although Article 37 calls upon CARICOM leaders to initiate policies to facilitate capital movement,⁹⁷ nothing has been done to fulfill this Treaty obligation.⁹⁸ A second impediment to production integration has been the resistance to the Treaty obligation⁹⁹ of harmonizing company law¹⁰⁰ among member states.¹⁰¹ Harmony among member

⁹⁵ See Blake, *Production Integration: Scope, Limitations and Prospects in CARICOM*, in TEN YEARS OF CARICOM 126 (1984).

⁹⁶ *Id.* Barbados was the only member to ratify the agreement. Other members were not willing to give up control of resources at the national level.

⁹⁷ Treaty Annex, *supra* note 3, art. 37. See Blake, *Production Integration: Scope, Limitations and Prospects in CARICOM*, in TEN YEARS OF CARICOM 125 (1983). With respect to services:

each Member State agrees as far as practicable to extend to persons belonging to other Member States preferential treatment over persons belonging to states outside the Common Market. . . .

Treaty Annex, *supra* note 3, art. 36.

⁹⁸ Caribbean Community Press Release, June 22, 1989, at 2. See Blake, *Production Integration: Scope, Limitations and Prospects in CARICOM*, in TEN YEARS OF CARICOM 118, 126 (1984). Member states have desired weak links with respect to the movement of capital within the Common Market to ensure continued control at the national level over resource movements.

⁹⁹ Treaty Annex, *supra* note 3, art. 42.

¹⁰⁰ THE REPORT OF THE WORKING PARTY ON THE HARMONIZATION OF COMPANY LAW 3 (1979). "Harmony can be said to be an exercise which aims at making [changes] to the existing laws of Member States to a point where the operation of those laws. . .beneficially affect the . . .operation of the Common Market."

¹⁰¹ See Liverpool, *The Law as a Harmonizing Instrument in the Integration Process in the Caribbean*, in TEN YEARS OF CARICOM 243 (1984). A standing committee produced a draft bill for harmonization of company law after nearly 10 years of negotiation. As of 1984, only Barbados had passed legislation along the lines of the provisions of the draft bill.

states in this area is crucial to initiating cost effective multilateral business ventures within the Caribbean basin.¹⁰²

A third factor constricting regional production integration is the disposition of the Treaty respecting intraregional migration. Since the Treaty fails to provide for the free movement of labor within the CARICOM states,¹⁰³ the efficient movement of labor across national borders often has been hindered. Finally, CARICOM members have resisted procedures to integrate production on a regional scale for fear of relinquishing local control of national resources.¹⁰⁴ Thus, the goals of production integration as well as free intraregional trade have been frustrated even as CARICOM states have continued efforts to fulfill these dual objectives of the Treaty.

D. Outlook for 1993

CARICOM members will attempt to reach the collective goal of a true Common Market for 1993 against the historical backdrop of mixed results in free trade and production integration. Clearly, the institutional and economic difficulties previously encountered in the implementation of the objectives of the CARICOM treaty must be overcome. The realization of the goal of 1993 will depend on how well the Grand Anse Declaration can provide mechanisms to remedy the problems of the past.

One promising factor suggesting an accelerated pace toward a common market by 1993 is the perception among CARICOM members that outside forces are compelling Caribbean nations to form a closer economic union.¹⁰⁵ The single market arrangement between the

¹⁰² THE REPORT OF THE WORKING PARTY ON THE HARMONY OF COMPANY LAW 4 (1979). A uniform system of law would: 1) reduce operational and administrative costs of business; 2) diminish artificial distortions of the market; and 3) promote regional economic independence. *Id.* See also James, *Caribbean Hopes High For Unified Exchange*, *Fin. Times* (London), July 19, 1989, at 25, col. 1; Pollard, *Copyright Protection in the Caribbean Community*, in *THE CARICOM BULLETIN* 20, 21 (1985) (stating the importance of copyright law harmonization to economic integration).

¹⁰³ Blake, *Production Integration: Scope, Limitations and Prospects in CARICOM*, in *TEN YEARS OF CARICOM* 126 (1984). The Treaty states that it does not impose any obligation on member states regarding movement of persons within CARICOM states. Treaty Annex, *supra* note 3, at art. 38.

¹⁰⁴ *Cf.* Blake, *Production Integration: Scope, Limitations and Prospects in CARICOM*, in *TEN YEARS OF CARICOM* 126 (1984).

¹⁰⁵ James, *Where Small Can Be Bountiful*, *Fin. Times* (London), Aug. 1, 1989, at 8, col. 1. Indeed, an "external shock" may be essential for successful economic integration. *Cf.* Conesa, *Decision Making in the Latin American Integration Experience*, in *TEN YEARS OF CARICOM* 237 (1984).

United States and Canada, the possibility of Pacific Rim economic unification, and the fertile ground of Eastern Europe as a location for western investors¹⁰⁶ have raised the question of whether the Caribbean integration movement will be "marginalized and pushed aside."¹⁰⁷

More importantly, CARICOM leaders are buttressing themselves for the harmful side effects they anticipate when European trade barriers go down in 1992.¹⁰⁸ However, the threat of a united Europe may prove more apparent than real. Exports to European Economic Community (EEC) countries have declined from 26.8% of all CARICOM exports in 1968 to 10% in 1983.¹⁰⁹ Moreover, the preferences granted CARICOM member exports to the EEC in the Lomé Conventions have not had any significant effect on Caribbean exports to the EEC.¹¹⁰

If the new Lomé agreement¹¹¹ continues the preferences granted under past agreements, the external stimulus for economic unification may be extinguished.¹¹² Similarly, if large quantities of traditionally exempted CARICOM exports to the EEC continue,¹¹³ CARICOM

¹⁰⁶ See James, *Where Small Can Be Bountiful*, Fin. Times (London), Aug. 1, 1989, at 8, col. 1. See also Kurlansky, *Spirit of Unity Sweeping Caribbean Nations Move to Establish a Single Market*, Chicago Tribune, July 24, 1989, at 3, col. 1.

¹⁰⁷ Kurlansky, *Spirit of Unity Sweeping Caribbean Nations Move to Establish a Single Market*, L.A. Times, July 11, 1989, at 7, col. 1. The Prime Minister of Dominica expressed:

[W]e are looking at what is happening. . . and realizing that we are foolish to think that we as small countries can go along on one's own when even large countries are realizing they must get together much closer.

¹⁰⁸ Schanche, *13 Caribbean States OK Proposal for Economic Union*, L.A. Times, July 11, 1989 at 7, col. 1. Almost half of the length of the Summit concerned trade relations with the EEC. Chicago Tribune, July 24, 1989, at 3, col. 3. As one minister noted: "[T]he formation of a single market in Europe in 1992 should provide. . . an inescapable point to try to settle practical questions for our own market." James, *Where Small Can Be Bountiful*, Fin. Times (London), Aug. 1, 1989.

¹⁰⁹ Gonzales, *Main Issues in the Dynamics of Caribbean/EEC Cooperation*, in THE CARICOM BULLETIN 37, 41 (1983).

¹¹⁰ *Id.* at 42. The large increase in exports of refined oil and alumina to the EEC in the 1980's, which do not enjoy preference under the Lomé Conventions, have diminished the importance of trade preferences granted by the EEC. *Id.* at 40.

¹¹¹ Caribbean Community Press Release, Feb. 9, 1989, at 1. Trade preferences granted CARICOM members under Lomé III will end in 1990. Negotiations have been underway in Brussels, Belgium to continue the preferences.

¹¹² See Caribbean Community Press Release, June 26, 1989, at 1. Leaders of the EEC have assured CARICOM members that trade preferences will not be diminished after trade barriers are abolished within the EEC in 1992.

¹¹³ See, e.g., *supra* note 110.

members may realize that the possibility of diminished preferences resulting from a united Europe may have relatively little effect on CARICOM exports as a whole. Thus, any external impetus for accelerated economic integration may depend upon the continued unfolding of CARICOM-EEC relations.

For the present, however, self-interested concern over global changes, whether objectively or subjectively perceived, may cause CARICOM leaders to direct renewed efforts toward implementing free trade and production integration by 1993.

External factors aside, the establishment of free trade among CARICOM members may well prove an onerous task, as execution of this objective within the structure of the CARICOM Treaty may be problematic. Although the Grand Anse Declaration calls for the elimination of quantitative and qualitative restrictions,¹¹⁴ Article 28 of the Treaty gives member states the right to exempt goods from free trade treatment when faced with balance of payment problems.¹¹⁵ Paragraphs 2 and 3 of Article 28 empower the Common Market Council to "devise special procedures to attenuate or compensate" for the effect of quantitative restrictions. Offsetting this exemption right, however, is the Article 28 attenuation provision never evoked by CARICOM members.¹¹⁶

This attenuation provision is important to establishing free trade because it furnishes a unified means of responding to protectionism. It may thus prove indispensable in initial stages of protectionism to avoid dynamic escalation of trade restrictions as individual members, in ad hoc fashion, seek to attenuate the effects of trade restrictions. Consequently, further prompt use of this unified approach by the Common Market Council may ensure smooth transition to free trade and prevent the chain reaction of protectionism similar to that which restricted intraregional trade in the 1980's.¹¹⁷ Unfortunately, CARICOM members make no commitment in the Declaration to renewing efforts to utilize this potentially beneficial mechanism nor to provide for new dispute settlement procedures.¹¹⁸

¹¹⁴ Grand Anse Declaration, *supra* note 12, at 2. See Schanche, *13 Caribbean States OK Proposal for Economic Union*, L.A. Times, July 11, 1989, at 7, col. 1; Caribbean Press Release, July 8, 1989, at 1-2.

¹¹⁵ Treaty Annex, *supra* note 3, art. 28. K

¹¹⁶ *Id.* at art. 28, para. 2, 3. See *supra* note 74 and accompanying text.

¹¹⁷ See *supra* notes 58-71 and accompanying text.

¹¹⁸ CARICOM members have made progress in establishing a Caribbean Court of Appeal. The precise nature of the court is not certain. Caribbean Community Press

The Article 28 mechanism, however, merely suggests the use of counter-protection against the state resorting to the exemption. The mechanism concentrates attention on compensating for the effects of restrictions on member states rather than on the means by which to alleviate the need to resort to the Article 28 exemption. Thus, CARICOM members must address regional balance of payment problems—the cause for resorting to qualitative restrictions and the Article 28 exemption in the past.¹¹⁹

The revitalization of the CARICOM Multilateral Clearing Facility, invested with new funds, directly confronts this problem.¹²⁰ The Facility has the potential to offset or perhaps prevent the recurrence of debt crises and monetary instability which plagued intra-CARICOM trade in the past¹²¹ by providing a mechanism to “minimize seasonal cash flow problems” and conserve foreign exchange through multilateral settlement of accounts.¹²²

To avoid the series of events leading to the Facility’s collapse in 1983,¹²³ changes in prior operations of the Facility must occur. CARICOM members could preserve the Facility’s liquidity and longevity by strictly conditioning further provisional credit upon settlement of existing debts.¹²⁴ In addition, the Facility could arrange for temporary infusion of credit from industrialized nations and international economic organizations if liquidity of the Facility is threatened due to increases in regional import prices.¹²⁵ These issues aside, the revitalization of the Facility will smooth the transition to

Release, July 8, 1989, at 3. The history of the movement to create the court suggests and adjudicative role of matters arising under the Treaty. Cf. Liverpool, *The Law as a Harmonizing Instrument in the Integration Process in the Caribbean*, in TEN YEARS OF CARICOM 238, 245 (1984).

¹¹⁹ *Supra* notes 114-16 and accompanying text.

¹²⁰ Grand Anse Declaration, *supra* note 12, at 1. See The Xinhua General Overseas News Service, July 28, 1987; *supra* note 85.

¹²¹ See *supra* notes 62, 76 and accompanying text.

¹²² Emtage, *Notes on the Role of Financial Cooperation in the Integration Process*, in TEN YEARS OF CARICOM 131, 133 (1984).

¹²³ See *supra* notes 79-84 and accompanying text.

¹²⁴ Emtage, *Notes on the Role of Financial Cooperation in the Integration Process*, in TEN YEARS OF CARICOM, 134 (1984). “Common sense indicates that a payment mechanism such as the [Facility] cannot survive if one of its participants is a persistent debtor and unable to settle any part of its indebtedness.” Emtage suggests establishment of board similar to the European Payments Union Managing Board as a means of dealing with persistent debtor nations.

¹²⁵ Increase in petroleum prices, for example, caused much of the debt crisis in CARICOM states. See *supra* note 62 and accompanying text. It should be noted that the fall of staple export prices may also lead to the taxing of the Facility.

realization of the free trade goal affirmed in the Grand Anse Declaration.¹²⁶

Renewed utilization of Article 28 procedures and the successful operation of the Facility will not, however, ensure elimination of trade barriers. Article 28 procedures are designed only to attenuate and contain such restrictions while the Facility will merely alleviate problems associated with short term settlements of debts. Hence, neither Article 28 nor the Facility addresses the underlying macro-economic impetus for trade restrictions.

Consequently, the preconditions of stable petroleum and other commodity prices¹²⁷ and the continued recovery of the international economy must exist¹²⁸ for CARICOM members to avoid further balance of payment problems and the resulting imposition of restrictions to protect foreign reserves.¹²⁹ These factors are basically outside the control of CARICOM members¹³⁰ and must be considered the "wild cards" of successful implementation of free trade.¹³¹

Thus, while the Declaration essentially sets forth a timetable of objectives leading to an intraregional free trade regime,¹³² it does not provide a framework for creating the environment necessary to bring about that objective or the perpetuation of the regime once free intraregional trade has been attained. It is clear that in order to realize the goal of free trade in 1993 and beyond, CARICOM members (1) must make effective use of available dispute settlement mechanisms to curtail protectionist measures, (2) constructively utilize the CARICOM Multilateral Clearing Facility, and (3) hope and work for the continued vitality of the international economic recovery and stabilized commodity prices.

¹²⁶ Grand Anse Declaration, *supra* note 12, at 2.

¹²⁷ *Id.*

¹²⁸ Cf. Reid, *The Evolving Structure of CARICOM Trade Regime*, in TEN YEARS OF CARICOM 106 (1984).

¹²⁹ See *supra* notes 76-78 and accompanying text. The current outlook is promising with respect to expenditures for oil imports. In 1988 expenditures for petroleum imports propped 18.7% of total intraregional imports over the preceding year. Caribbean Community Press Release, June 14, 1989, at 1.

¹³⁰ See Caribbean Community Press Release, May 8, 1987, at 13.

¹³¹ This is not to say CARICOM members have no control over petroleum prices. Of course, the CARICOM market is too small to have more than a negligible impact on world oil prices. CARICOM members can, however, reduce their reliance on oil imports and accordingly preserve foreign reserves. See THE CARIBBEAN COMMUNITY IN THE 1980's 53-56 (1981). Alternatively, CARICOM states can also eliminate their reliance on relatively few staple exports to lessen the impact of the balance of payments problems which often arise when staple exports fluctuate in price.

¹³² See *supra* note 13.

With respect to production integration, the establishment of a regional capital market through the union of regional stock markets¹³³ will greatly increase the ability of CARICOM members to mobilize capital to facilitate production integration.¹³⁴ Although internal problems will almost certainly arise,¹³⁵ the regional stock exchange will provide a facility for the removal of the primary impediment to production integration—the lack of capital mobility and availability—within the region.¹³⁶ Moreover, renewed commitment to development of the CARICOM Enterprise Regime at the Heads of Government Conference¹³⁷ holds promise for renewed interest in joint-ventures in the region.¹³⁸ These two initiatives indicate a relaxation of national policies directed toward local control of resources—policies which constricted production integration in the past.¹³⁹

The elimination of passport and work permit requirements¹⁴⁰ for intraregional travel will increase labor movement within the region.¹⁴¹ Commitment to the free movement of labor is a particularly significant and positive departure from the Treaty, which does not impose any obligation on member states regarding movement of persons.¹⁴² This initiative is aided by commitment to regional air and sea transportation, including “the pooling of resources by existing air and sea carriers.”¹⁴³ Thus, the free movement of capital

¹³³ Grand Anse Declaration, *supra* note 12, at 1.

¹³⁴ See Caribbean Community Press Release, June 22, 1989, at 1.

¹³⁵ See James, *Caribbean Hopes High for Unified Exchange*, Fin. Times (London), Aug. 1, 1989, at 8, col. 1. James identifies these impediments to establishing a regional capital market as (1) the possibility of currency devaluations, (2) disparity in company laws among CARICOM members, (3) lack of double taxation agreements, and (4) installation of telecommunication networks.

¹³⁶ See *supra* notes 22-28 and accompanying text. The regional exchange will also fulfill Treaty obligations under Article 37 calling for programs to enhance capital movement within the area. CARICOM Treaty, *supra* note 1, art. 37.

¹³⁷ Grand Anse Declaration, *supra* note 12, at 1.

¹³⁸ The CARICOM Enterprise Regime finally began preliminary operations in April of 1989, supported by Antigua and Barbuda, Guyana, Jamaica, St. Kitts-Nevis, Saint Lucia, and St. Vincent and The Grenadines. See Caribbean Community Press Release, April 24, 1989, at 1.

¹³⁹ See *supra* note 105 and accompanying text.

¹⁴⁰ Schanche, *13 Caribbean States OK Proposal for Economic Union*, L.A. Times, July 11, 1989, at 7, col. 1.

¹⁴¹ Grand Anse Declaration, *supra* note 12, at 2, 3.

¹⁴² Treaty Annex, *supra* note 3, art. 38.

¹⁴³ Grand Anse Declaration, *supra* note 12, at 2. East Caribbean nations have initiated negotiations with the United Kingdom to establish a single multinational air service. See Caribbean Community Press Release, July 8, 1989 at 6; Caribbean Community Press Release, June 2, 1989, at 1.

and labor and the opposition to joint production activities,¹⁴⁴ which provided the greatest obstacles to production integration in the past, may well be remedied. The Grand Anse Declaration calls forth optimism for successful production integration.

One impediment to production integration, company law harmonization, remains unaddressed in the Grand Anse Declaration.¹⁴⁵ Failure to effect measures in this direction will likely forestall the successful realization of both the regional stock market¹⁴⁶ and advancement in production integration. CARICOM members could easily fulfill the treaty obligation of law harmonization¹⁴⁷ and ease transition to production integration by passing legislation consistent with the standing committee's draft bill for harmonizing national laws.¹⁴⁸

II. CONCLUSION

The prognosis for a bona fide common market by 1993 is mixed. The goal of free trade is still inhibited by the failure to use dispute mechanisms within the CARICOM Treaty and the unpredictable nature of the international economic climate. On the other hand, measures taken to further production integration in the region, including the creation of a regional stock market and implementation of the CARICOM Enterprise Regime, appear to be viable means of attaining the production integration objective by 1993. The success of the Grenada Summit agreement rests primarily on whether CARICOM leaders can dispel the historical difficulties left unaddressed by the new agreement.

No one can foretell how long the external impetus for an accelerated pace toward integration will focus the attention of CARICOM leaders toward 1993. The Grand Anse Declaration advances the original goals of CARICOM, overcomes many of its internal and external weaknesses, and establishes a dateline for a Common Market. The broad goal of Caribbean economic integration will, however, not succeed or fail by 1993; it is a process. And it is this

¹⁴⁴ See *supra* notes 97-98, 103-04 and accompanying text.

¹⁴⁵ James, *Caribbean Hopes High for United Exchange*, *Fin. Times* (London), July 19, 1989, at 25, col. 1.

¹⁴⁶ *Id.*

¹⁴⁷ Treaty Annex, *supra* note 3, art. 42.

¹⁴⁸ See Liverpool, *The Law as a Harmonizing Instrument in the Integration Process in the Caribbean*, in *TEN YEARS OF CARICOM* 243 (1984). See also *supra* note 102.

notion which observers must hold in mind as CARICOM members press toward the 1993 deadline.

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