AN EMPIRICAL EXAMINATION OF COMPETITION ISSUES IN SELECTED CARICOM COUNTRIES: TOWARDS POLICY FORMULATION

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February 2004

Research funded by the Department for International Development (DFID) of the UK Government and The International Development Research Centre (IDRC) of Canada
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Preface

This research is a timely and important contribution to the debate on the relationship of competition and competition law with economic development in small Caribbean economies.

It is timely because the results of the research arrived at a time when the attempt by some developed countries to convince developing countries that they should adopt competition laws in order to promote efficiency has been met with skepticism or even outright hostility by a number of developing countries, and in particular by CARICOM countries. In international fora those countries have argued that cooperation among domestic producers or concentration of firms rather than competition among firms is necessary in order to overcome the handicaps of smallness and underdevelopment and that competition law is too costly to implement to be of use in economies whose government resources are particularly scarce.

This research is also important for several reasons.

First, there are very few empirical studies of the specific competition problems found in small economies in spite of the fact that the rapid increase in the number of countries since the end of World War II has meant a rapid decline in the average size of each country and the emergence of very small countries.

Second, this research differs in its approach and in its scope from previous research such as the pioneering work of Michal Gal, who studied competition in small economies from the vantage point of economic analysis. This research focuses on the political economy of competition in CARICOM countries. It implicitly starts from the premise that adopting a competition law is a political choice and therefore a choice which is based on broader socio-political goals than the strict considerations of static efficiency favoured by economists. It thus discusses the possible contribution of competition to the promotion of fairness, a more balanced distribution of wealth and income, social stability, the empowerment of disenfranchised segments of the population etc. Because of its political economy approach to the problem of competition in Caribbean small islands, this research also recognizes that perceptions concerning competition may be more important determinants of public policy than abstract models of economic development. It therefore relies to a large extent on interviews with key economic actors in the various countries studied to assess the general economic context of each country, the reality of competition, the cost of anticompetitive practices and the prospect for changes.

The third reason this research is important is that it formulates policy recommendations in a pragmatic way, by basing them on diagnoses established via a political economy assessment of the competition problems encountered by small Caribbean economies. In the recent past, much of the debate in international negotiating fora on the question of competition law and economic development for small size economies has focused on two ideas: “One size does not fit all” and “special and differential treatment” for developing economies should be part of any multilateral or
plurilateral agreement on competition. However these ideas have remained excessively vague, thereby contributing to misunderstanding and mistrust during international discussions on competition. Developed countries have tended to assume that the frequent reference to these two ideas by developing countries was merely a means to bargain for wide exemptions which would render competition law in those countries meaningless. Developing countries and small economies often felt that developed countries failed to understand that they were not just small sized equivalents of large developed countries and therefore due consideration of their specific development needs was required. In contrast to such misunderstanding, this research formulates a number of concrete proposals for adapting competition laws to the needs of the CARICOM countries. These proposals are based on observation of the situation in the countries studied (for example with respect to import and export cartels, vertical integration, interlocking directorates, etc.) and on an assessment of the experience of the CARICOM countries which have already implemented a competition law (Jamaica and Barbados). While there may be scope to further discuss some of the policy recommendations, the research presents what is overall a pragmatic and clearly delineated work plan to promote competition in Caribbean countries.

This research offers unique insights in its descriptions of the functioning of markets in the CARICOM economies and is pathbreaking in its approach. It is clearly a very important contribution to the ongoing policy debate on competition policy in small economies and will constitute an essential reference on the subject for many years to come, particularly in view of the fact that it dispels the notion that competition is unimportant for small developing economies. Taimoon Stewart and her team have done a superb job.

Professor Frederic Jenny
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Ecole Supérieure des Sciences Economiques et Commerciales (ESSEC)
Vice Chair, Conseil de la Concurrence, France

February 2004
Acknowledgements

The Sir Arthur Lewis Institute of Social and Economic Studies of The University of the West Indies could only have undertaken this regional research with the generous financial support provided by the International Development Research Centre of the Government of Canada and the Department for International Development of the Government of the United Kingdom. The Institution and the individuals involved in the research are extremely grateful for the grant provided by these donors.

The Institute is also grateful to the Central Banks of the Bahamas, Belize and Trinidad and Tobago, the Small Business Enterprise Unit of St. Vincent and the Grenadines (SVG), and the Jamaican Fair Trade Commission for their willingness to support this research by allocating members of staff as country counterparts to support the lead researcher.

We wish to thank all those persons who willingly agreed to be interviewed, and those government departments and institutions which cooperated in providing data.

A special thanks to the Governor of the Central Bank of the Bahamas who not only supported the research by allocating a member of staff to the project, but who also financed additional trips by the Lead Researcher to the Bahamas, both Nassau and Freeport, and who financed and facilitated a workshop to present the research findings.

The administrative staff of the Institute worked very hard to organize the brainstorming session and two workshops that were part of the project’s undertaking, and the Director and Staff of the Small Business Enterprises Unit of the SVG provided invaluable support to arrange logistics for the St. Vincent workshop in June, 2003. Many thanks to all who were involved.

As Lead Researcher, I would like to thank the former Director of the Institute, Professor Selwyn Ryan, for his unswerving support throughout the project. I would also like to thank Dr. Andres Rius of IDRC for the helpful comments and suggestions which he provided throughout the undertaking. Without the critique and guidance provided by the experts attached to the project, the researchers could not have delivered as much as they have succeeded in doing. I would like to thank the following persons for their guidance in this project: Professor Frederic Jenny, (Chairman of the WTO WGTCP); Dr. Francois Souty (Counseil de Concurrence, France); Mr. Rajan Dhanjee (UNCTAD); Mr. Paulo Correa (World Bank); Dr. Diego Petrecolla (University of Argentina); Dr. Simon Evenett (Oxford University); Dr. Lily Ohiorhenuan (UNDP Consultant) and Professor Clive Thomas (University of Guyana). Finally, but not least, I would like to thank the Country Counterparts for the sterling contribution they have made to this work.

While the contributions of others have been tremendous, I take sole responsibility for any shortcomings in the final report of the research findings.

Taimoon Stewart
February 2004
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<td>Arrowroot Association (SVG)</td>
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<td>ACP</td>
<td>Africa, Caribbean and Pacific [Countries]</td>
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<td>ADM</td>
<td>Archer Daniel Midland Company</td>
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<td>ADR</td>
<td>Average Deposit Rate</td>
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<td>AWDR</td>
<td>Average Weighted Deposit Rate</td>
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<td>AWLR</td>
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<td>BATELCO</td>
<td>Bahamas Telecommunication Company</td>
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<td>BCJ</td>
<td>Blue Cross of Jamaica Ltd.</td>
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<td>BEC</td>
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<td>BEL</td>
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<td>BGA</td>
<td>The Banana Growers Association</td>
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<td>Building and Loan Association (BLA)</td>
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<td>Belize Telecommunications Ltd.</td>
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<td>C&amp;W</td>
<td>Cable and Wireless</td>
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<td>Caribbean Canada [Agreement]</td>
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<td>CARICOM Single Market and Economy</td>
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<td>CARICOM</td>
<td>Caribbean Community</td>
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<td>CBI</td>
<td>Caribbean Basin Initiative</td>
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<td>CCC</td>
<td>Caribbean Cement Company</td>
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<td>CDP</td>
<td>Gross Domestic Product</td>
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<td>CDR</td>
<td>Commonwealth Development Corporation</td>
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<td>CET</td>
<td>Common External Tariff</td>
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<td>CIBC</td>
<td>Canadian Imperial Bank of Commerce</td>
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<td>CLICO</td>
<td>Colonial Life Insurance Company (Trinidad) Ltd.</td>
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<td>Eastern Caribbean Central Bank</td>
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<td>Eastern Caribbean Group of Companies</td>
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<td>EU</td>
<td>European Union</td>
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<td>FCIB</td>
<td>First Caribbean International Bank</td>
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<td>FDI</td>
<td>Foreign Direct Investment</td>
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<td>FTAA</td>
<td>Free Trade Area of the Americas</td>
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<td>Fair Trading Commission</td>
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<td>GBPA</td>
<td>Grand Bahama Port Authority</td>
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<td>The General Equipment and Services Corporation (CVG)</td>
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<td>HRCU</td>
<td>Holy Redeemer Credit Union (Belize)</td>
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<td>JPSCo.</td>
<td>Jamaica Public Service Company Ltd.</td>
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<tr>
<td>JUTA</td>
<td>Jamaican Union of Travellers Association</td>
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<td>Acronym</td>
<td>Description</td>
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<tr>
<td>LAR</td>
<td>Liquid Asset Ratio</td>
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<td>LDCs</td>
<td>Less Developed Countries</td>
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<td>LUCELEC</td>
<td>St. Lucia Electricity Company</td>
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<td>MAJ</td>
<td>Media Association of Jamaica</td>
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<td>MCR</td>
<td>Merger Control Regulation</td>
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<td>MES</td>
<td>Minimum Efficient Scale</td>
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<td>MNCs</td>
<td>Multinational Corporations</td>
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<td>NAFTA</td>
<td>North American Free Trade Area</td>
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<td>NBC</td>
<td>National Broadcasting Corporation (SVG)</td>
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<td>NGO</td>
<td>Non-Governmental Organization</td>
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<td>OECD</td>
<td>Organization of Economic Coordination and Development</td>
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<td>OECS</td>
<td>Organisation of Eastern Caribbean States</td>
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<tr>
<td>OUR</td>
<td>Office of Utilities Regulation</td>
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<tr>
<td>PAS</td>
<td>Provider Access System</td>
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<td>Public Utilities Commission</td>
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<td>R&amp;D</td>
<td>Research and Development</td>
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<td>RBTT</td>
<td>Royal Bank of Trinidad and Tobago</td>
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<td>Special and Differential [Treatment]</td>
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<td>Structural Adjustment Programme</td>
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<td>SI</td>
<td>Statutory Instrument</td>
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<td>Small Office Home Office</td>
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<td>St. Vincent and the Grenadines</td>
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AN EMPIRICAL EXAMINATION OF COMPETITION ISSUES IN SELECTED CARICOM COUNTRIES: TOWARDS POLICY FORMULATION

EXECUTIVE SUMMARY

This project was undertaken in response to the urgent need to develop an understanding of competition issues in Caribbean Community (CARICOM) countries, based on empirical information. All members of the CARICOM Single Market and Economy are in the process of drafting competition legislation in fulfillment of obligations under Chapter VIII of the revised Treaty of Chaguaramas. CARICOM countries are currently negotiating a chapter on competition policy within the proposed Free Trade Area of the Americas (FTAA) Agreement. The findings of this study could provide a basis for policy formulation in shaping and implementing the CARICOM competition regime, and in responding to the demands of external trade negotiations.

Six (6) countries, representing the different types of economies in CARICOM, were chosen for the case studies. They are: Belize, The Bahamas, Jamaica, St. Lucia, St. Vincent and the Grenadines (SVG), and Trinidad and Tobago (T&T). The research team consisted of a Lead Researcher, a representative from each country, and a member of staff of the Jamaican Fair Trading Commission. The major questions posed in the research were as follows:

1. Is Competition Law relevant for small economies and is it important for economic development?

2. Are there features in small economies that are peculiar to small size and which can impact on the dynamics of competition in the market?

3. How applicable to small economies are the theoretical underpinnings of competition law and policy?

4. How should the competition regime be shaped to fit the needs of the economies?

5. Given the research findings, how do CARICOM countries respond to provisions in the FTAA Draft Chapter on Competition Policy?
In the study, a distinction was made between competition policy and competition law. Competition policy is interpreted to include a range of government’s policies that impact on competition in the market, including trade, investment, and industrial policy, privatization, and competition law. Competition law proscribes anti-competitive conduct by public and private businesses, including prohibition of anti-competitive agreements (e.g., price fixing, bid rigging), abuse of a dominant market position, and merger control regulation.

A review of the literature on competition policy in small economies yielded little that could be conclusively taken to provide a full prognosis for CARICOM countries, primarily because the countries studied (Israel, Australia, Canada, Hong Kong, Singapore, and South Korea) are much larger and very different in structure and orientation from the small economies in CARICOM. It was therefore decided that empirical work in these latter economies was needed in order to develop a basic understanding of competition issues in small Caribbean economies.

As a first step, the researchers developed a profile of each economy, in order to determine how much competition local firms faced from imports and foreign direct investment, as well as to identify the major non-tradable sectors (not exposed to foreign competition). Based on these findings, specific sectors were chosen for closer examination through interviews and desk research. These were banking; tourism; the production of goods: poultry, flour, cement, beer, steel; and the services sector: import, distribution, and retail businesses, public transport and downstream services in the petroleum sector. An attempt was also made to discern intra-regional competition issues. A brief examination of public utilities was undertaken with greater emphasis on the telecommunication sector. The experience of the Jamaican Fair Trading Commission was reviewed for lessons that other CARICOM countries may benefit from when introducing their competition regimes.

The research confirmed that CARICOM countries are micro-economies compared to Canada, Israel, Australia and the Asian Newly Industrialized Countries (NICs), with limited geographic size, population, natural and human resources. Most CARICOM countries are island states and this feature increases the per capita cost of infrastructure as well as production and distribution costs because of high freight charges (compared to inland transport), and this is further exacerbated by diseconomies of scale and long distances (e.g., Belize). The economies were created by European expansion and colonialism, and shaped to produce in response to the needs of the colonizers. As such, commodity production (sugar, bananas, bauxite, petroleum) has dominated these economies and, with the exception of petroleum, remains very much at the low end of the global product value chain.

Export earnings are declining (except oil) and volatile. Tourism is increasingly the mainstay of most of the economies, which rely heavily on international trade for their consumption needs, and for income generation. They are largely open, and highly penetrated by foreign investors who control the major export sectors, and have made significant inroads in some economies in the production of goods and services (e.g.,
Local firms are mostly small family owned concerns that are commerce oriented and operate at low technological levels. Little research and development and innovation take place in the region. Vulnerability to natural disasters increases the fragility of these economies, with hurricane damage being the most serious.

While Trinidad and Tobago, Jamaica and the Bahamas are largely open to imports, there are restrictions in the smaller economies (St. Lucia, SVG, and Belize), based primarily on the special and differential provision of the Treaty of Chaguaramas, Article 56. As such, Belize has extensive restrictions on imports of agricultural products, which sector is the mainstay of the economy, providing near self-sufficiency in food, and exporting citrus and bananas to provide significant foreign currency earnings. Tourism nevertheless is a fast growing sector, and like all of the other five (5) economies studied, has steadily increased its contribution to GDP, foreign exchange earnings and employment.

St. Lucia and SVG protect the basic needs basket through import restrictions or price controls. Foreign Direct Investment can enter most sectors in the economies, subject to work permits for foreign staff and compliance with general regulations. However, the smaller economies, in varying degrees, reserve the tourism downstream services sector and some others for locals. The non-tradable sector was found to be primarily in the provision of services to locals: distribution, retail, transport and other services (travel agencies, shipping agents etc.), the production of protected foods such as poultry, flour and the legal and natural monopolies such as utilities.

An in-depth exploration of the banking sector was undertaken because of the widespread perception of oligopolistic price fixing by the banks with their high service charges and unusually wide interest rate spreads. Most economies have between six and eight banks, most of them foreign owned. Bankers were careful not to “rock the boat”, with the leader being unwilling to take more market share because of the high level of risk. Close interpersonal relations in small economies lead to some bypassing of the lending rules, as loans are sometimes recklessly provided to family and friends, thus increasing risks.

The findings were that while there seem to be a fair amount of cooperative behaviour amongst the banks to keep the “equilibrium” without sending the rates too low, outright collusion seemed unlikely. The economies are so small and transparent that it is very easy to adopt a follow the leader tactic. Moreover, there seems to be a need for greater spreads between lending and borrowing rates than exist in developed economies because of the peculiar constraints faced by banks in small economies. Some of these are:

1. High default rates on loans.
2. Limited investment opportunities for surplus funds.
3. Vulnerability to loss of income because of volatile exchange rates and export earnings, plus damage cause by natural disasters, particularly hurricanes, which can threaten the viability of businesses.

4. High Statutory Reserve Requirements that results in loss of income because money is idle and unproductive.

5. Small client base, leading to diseconomies of scale.

6. Unsophisticated clientele and lack of minimum efficient scale pose a hindrance to technology upgrading.

Be that as it may, the conclusion was that banks in the Caribbean have too great a profit margin, exceeding those in developed countries, and that more effort should be made for a fairer sharing of the surplus with consumers.

In the tourism sector, serious competition problems were found in the ground transportation of tourists, with hostility between taxi and tour bus operators. There are gross inefficiencies in many of the countries. However, this is an overly sensitive sector, with employment considerations for disadvantaged groups being a high priority, and politicians finding it difficult to rationalize the sector along market principles.

Another area where there are competition concerns is in the organizing of the tourist experience in the country, which is now being dominated by Tourism Destination Management Companies. Smaller companies are being squeezed out, and this is partly because of pressure being exerted from the International Tour Operators (ITO’s) who are managing the tourist experience by determining choices available to the tourist ranging from choice of destination to the restaurants in which the tourists dine. The European ITO’s for instance prefer to deal with large companies who can comply with the European Union Directives on Tourism.

International Tour Operators have such large buying power now that they manage to put downward pressure on costs of airline tickets, hotel rooms, meals in restaurants and other tourist services, while creaming off large profits for themselves, allegedly. These vertical links between International Tour Operators, airlines, hotels and tourists make it very difficult for smaller hotels and establishments to share in the pie. Apart from Jamaica and SVG, the tourism sector is dominated by foreign investors.

The production of goods in the non-tradable sector is fairly small relative to the export sector, but this is where opportunities for anti-competitive conducts are most prevalent. Trade Associations have been engaging in price fixing as part of normal business practice, and without any notion that this is illegal in jurisdictions where there is competition legislation. Thus, the Baker’s Association in T&T raised prices on certain types of bread in January 2003 when the price of flour was increased, and announced it in the newspapers. Subsequent decrease in the price of flour was not followed by a
reduction in the price of bread. Similarly shipping Agents in T&T increased their handling charges for clearing shipments.

While anti-competitive cartel activity seems to be present in the larger economy of T&T, in the smaller economies, pro-competitive cooperative behaviour was discerned in the import cartels found particularly among newly migrant ethnic groups such as the Chinese, Taiwanese, and East Indians. The Syrian-Lebanese population control the textile trade throughout the region and collaborate very closely in import and distribution.

The research findings show that the small economies are prone to heavy concentrations because of the need to achieve minimum efficient scale, but also as a result of historically derived concentration of wealth in the hands of the descendants of the white plantocracy class. In the Bahamas, for instance, a few white Bahamian families control the import and distribution of food and building supplies and the shipping industry. Economic activities of this group centre around commerce (import, distribution, retail), and now, there are inroads into the tourism downstream services sector. Control by this group in the commercial sector has been so entrenched that market entry is difficult for smaller enterprises. However, the collaboration of ethnic groups in importing and retailing has now led to good competition and a healthy challenge to the incumbents. This is particularly so in the smaller territories of SVG, St. Lucia and Belize. In T&T, there has been a shift in the allocation of resources as Syrians consolidated their growing wealth and bought out businesses previously owned by the plantocracy class. They are now included in the elite business sector.

Abuse of a dominant market position seems to be more likely to occur in these small economies than cartelization, primarily because of an aversion to collaboration by small family firms in the local population (as opposed to the ethnic migrants groups). Small size of population lends itself to intense inter-personal relations and a level of transparency that are not the norm in larger economies. The culture of the small indigenous family owned business is one of fierce independence and unwillingness to disclose or share information. On the other hand, the business elite intermarry, consolidating their wealth and generally ensuring that their control of the economy is preserved through interlocking directorates.

Abuse of a dominant market position by a significant player in the poultry sector in T&T led to wide swings in the price of poultry, so much so that the Consumer Affairs Division of the Ministry of Legal Affairs had to intervene to regularize the price of poultry. There was alleged predatory behaviour on the part of a dominant player who succeeded in driving two players out of the market and increasing his market share significantly.

Sole Agencies/Distributors were found to be the norm in the region, largely linked to the need for achieving minimum efficient scale, but also residing in the hands of historically entrenched capital. This is increasingly being eroded as larger retailers import directly from major warehouses in the USA that carry a variety of products and brands.
However, there is suspicion that the products are “seconds” due to their relatively poor quality.

There is a monopoly in the cement market, and this is region-wide since the Trinidad Cement Ltd. (TCL) brought out Jamaican and Barbadian factories. Importation of cement is allowed, but there is a common external tariff of between 50-60 percent. There have been several cases of proven dumping of cement, which led to the request by TCL for a higher tariff. There is a perception, though, that the cement company is making exceedingly high profits, that there are inefficiencies that should be removed, and that there should be a fairer sharing of the surplus with consumers. Indeed, the company is currently upgrading and restructuring its plants.

Concentrations were increased in the beer market in T&T and in the transport sector in Belize through buy out of competitors creating sole producer/provider of the good/service. It is clear that even in very small economies, there may be a role for merger control regulation or legislation that would allow government’s intervention to prevent anti-competitive mergers.

Intra-regionally, anti-competitive conducts were discerned in the beer market between Heineken of St. Lucia and Carib of T&T. These included loyalty discounts by both groups and the provision of refrigeration facilities on an exclusive display basis by Carib. In Jamaica, the foreign company, Desnoes and Geddes Ltd. (D&G), which produces Red Stripe beer, was investigated by the Fair Trading Commission (FTC) for exclusive sales and promotional arrangements between D&G and several distribution outlets. A Consent Agreement was concluded between the FTC and D&G.

There were complaints that foreign investors in the petroleum sector in T&T were not giving local service suppliers fair access to the tendering process for jobs, but rather, were sourcing suppliers from the UK and Houston, Texas. However unfair this may be to the economy, though, it seems to be more an issue of local content in investment rather than a competition issue. The multinational company which owns the steel mill in T&T has been charging locals prices that are considerably higher than the international price of steel, and downstream producers are complaining of predatory behaviour to drive them out of the market. This issue is at the heart of the development question, since the downstream sector was created precisely to add value in the industry, and the mill was supposed to feed that sector.

An issue that came up repeatedly in interviews all over the region, more so in some countries than in others, is the unfair competition faced by the private sector from the informal sector. This sector has changed considerably over the last decade or so, to now include a criminal element that is allegedly linked to the drug trade. They are alleged to launder money, import goods into the economy without paying duties and other taxes, and their retail prices are in the range of the cost price to the formal trader. Alleged collusion with customs officers facilitates this process. Crime levels are so high in countries like Jamaica and T&T that firms are forced to spend substantial amounts of money on security, thus increasing their cost of production. The governance issue extends
to political favouritism and cronyism which lead to deals which give some businesses a competitive advantage over others. It became clear that developing a healthy competition regime requires seriously addressing the need for good governance practices.

A brief exploration of the utilities sector was undertaken. The Cable and Wireless monopoly has been successfully challenged in several countries, and the data and cellular sub-sectors liberalized. T&T and Antigua and Barbuda are amongst the few countries in which there is still a monopoly. The Antiguan Government owns the telecommunications company, while the T&T government has majority shares in the company with Cable and Wireless owning 49 percent of shares. Competition has brought remarkable reduction in rates and improvement in services, with several providers operating in the economies that are liberalized. The incumbent, Cable and Wireless, is accused of having employed delaying tactics to bar entry of the newcomers.

In small economies, electricity and water providers tend to have natural monopolies because of small size of market. In several of the countries, these sectors have been privatized or commercialized. However, in St. Lucia, the foreign company has a guaranteed rate of return which agreement is very unpopular with the population. In the Bahamas, the company must provide service to some sixteen (16) islands spread over long distances, with populations of a few thousand persons or less. Clearly, it is uneconomical, and must be done as a public service. There is grave concern that privatization, which naturally means transfer of ownership to a foreign company in these small islands, would lead to either neglect of the Family Islands or exorbitant, unaffordable charges. The Bahamas Electricity Corporation has made itself more efficient over the last year, however. There may be good argument against privatization in this case.

The study concluded that competition law is necessary in these economies because of the detrimental effects on development of the anti-competitive conducts that are prevalent. However, strong cultural traditions make the workings of competition somewhat different in small economies, and this must be strongly considered when implementing and enforcing the law. Moreover, the introduction of competition policy must be framed in the context of the level of insertion of these economies into the global economy, and the inequality of the international trading system. It is necessary to protect certain sectors in the interest of food security, employment and entrepreneurial opportunities for locals. The benefits of competition that are touted in the literature may not materialize in small economies because of the structural rigidities and deficiencies that limit development options. Further, innovation would not be a natural response to competition in small economies because there is not the enabling environment to take invention to commercially successful innovation. Rather, the firms are technology takers.

It is recommended that emphasis should be placed on proscription of abuse of a dominant position, since this is more pervasive in small economies. This therefore requires technical assistance for training of staff and education of stakeholders. The education process is urgently needed before the legislation is passed so that there will be the requisite human resource in place to staff the Commissions. It is recommended that
training of staff should be offered on the condition of being bonded for five years, to avoid rapid staff turnover that is plaguing competition commissions in developing countries. Import and Export cartels should be exempt. In the case of import cartels, this could be done through a general exemption of small and medium enterprises. The importance of linking consumer protection to competition enforcement was emphasized, and there is an urgent need to provide for mechanisms to facilitate close cooperation between Regulators and the Competition Commissioners, in order to prevent conflicts over jurisdiction.

In drafting the law, the recommendation was that the law must be shaped to the needs of the economies, as identified here, and that international experts be invited to comment on the law, as that would prevent challenges after the law has been passed which could discredit or cripple the Commission. Fines should be sufficient to be a disincentive and should be a percentage of yearly turnover or of assets, so that large companies could be suitably punished while small ones could survive the fines. The provision in the South African law that provides for a defense of the public interest in the name of social justice is worth considering, given the inequitable division of resources in many of these economies. Moreover, there must be careful planning in setting up the Commission, training the staff and, in the early stages, choosing cases that can be easily understood by the public and which the commission could win, as success begets success and is vital for the sustainability of the process. Finally, it was recommended that governments address governance issues in the society simultaneously with competition issues.

The draft Chapter on Competition Policy in the FTAA proposes introduction of merger control regulation, and while the study concluded that it is indeed needed, there is no consensus in the region on this provision, so CARICOM countries would require exclusion in the event that there is agreement by other delegations. The provision on state enterprises and legal monopolies is very extensive and goes well beyond what is agreed intra-regionally. Moreover, the Bahamas has a peculiar situation of legal monopolies in Freeport enshrined in law in the Hawksbill Creek Agreement, and would require exclusion from this provision. While it was determined that there is very little direct state aid in the countries studied, it is not possible to make a pronouncement on this until all CARICOM countries are examined in this respect. A separate, detailed policy paper will be produced for the Caribbean Regional Negotiating Machinery (CRNM), which would necessarily have to be confidential.

The findings of this study extend the thinking on Competition Policy in Small Economies by demonstrating that while economies of scale and the need to achieve minimum efficient scale impose severe constraints on competition in small economies and must be considered when enforcing a competition law, there are more factors of equal relevance in small economies. The culture of the societies, given small size, close interpersonal relationships and value systems, impact on how business persons respond to competition issues, and the ability of the competition authority to discern and prove anti-competitive conduct. Moreover, because there continues to be remnants of the exploitative plantation system in these societies, special consideration should be given to
disadvantaged groups in the society when determining the extent to which reliance on efficiency could lead to welfare gains, or whether market imperfections may require government's intervention that limit competition. Social considerations must be factored into developing and implementing a competition law and policy regime.
SECTION 1

INTRODUCTION:
ISSUES AND OBJECTIVES

1.1 Development Concerns in CARICOM

Caribbean Community (CARICOM) economies have been severely affected by the changed global environment of the last decade. Many of the Eastern Caribbean countries depended heavily on development aid since gaining independence. The end of the Cold War led to a reduction in the strategic importance of these countries to Western powers, and aid flows to CARICOM were drastically cut while being re-directed to Eastern Europe. These economies were further marginalized as a result of globalization processes which re-directed investment flows to economies receptive to new technologies, and accommodative of new modes of production. Thus, most investment in the last two decades have been within OECD countries and selected developing countries, such as China, with its huge untapped market, and cheap but skillful human resource pool. Investment flows to CARICOM countries all but dried up, except for the petroleum sector in Trinidad and Tobago.

Not only were these economies seriously affected by the re-direction of aid and investment flows, but they also had their development options limited by the rules of trade negotiated in the GATT 1994, that required phasing out or removal of preferential treatment under the LOME Convention with Europe. The EU has been forced by the US challenge in the WTO to alter its banana regime to accommodate (US-owned) Central American bananas on a more equal footing. The Windward Islands banana industry is unable to compete because it consists primarily of small scale farmers, not large plantations, and wages and conditions for labour are of a much higher standard than what obtains in Central America, which increase costs. Earnings from the banana industry have dropped significantly, and at present (2003), there is a crisis in the agricultural sector in the Organization of Eastern Caribbean States (OECS), with five states registering declines, and two others having marginal increases. Preferential arrangements with the US and Canada are threatened with erosion by the proposed Free Trade of the Americas Agreement (FTAA).

The other mainstay of these economies, tourism, was dealt a severe blow in the post September 11 downturn. Some 64 percent of all holidays booked for the region were cancelled in the immediate aftermath of September 11. In the Caribbean region, total arrivals in 2001 declined by 2 percent to 134.9 million stay over, 14.9 million cruise passengers (2.4 percent increase in cruise) while total expenditure by tourists fell by 1.2 percent to US 19.4 billion. The Caribbean region also experienced a drop of 1.5 percent
of visitor arrivals in 2002, with all the major destinations except Bermuda, Curacao and Puerto Rico showing declines in arrivals. However, it was clear by the second half of 2002 that a recovery from the effects of September 11 was underway. The Bahamas, which had shown signs of being hardest hit by the fall-out of September 11, recorded a 3 percent increase in 2002 (Caribbean Tourism Association). Tourism employs 25 percent of the labour force in the region, and as a result of the fall in tourist arrivals, hotels have been operating far below capacity, and have had to lay off staff, increasing unemployment and exacerbating socio-economic problems. A program of joint regional aggressive advertising abroad has been undertaken in an effort to revive interest in the region as a tourist destination, promoting it as a safe place. Tourism is further affected by the fact that these economies are vulnerable to natural disasters, particularly hurricanes, which can, in one fell swoop, wipe out a large part of the productive sector (e.g., bananas, tourism and other infrastructure upon which economic activities are dependent, etc.). In the Bahamas, over 90 percent of services receipts in 2000 was from tourism while the quantum in Jamaica and Barbados was 67 percent. Tourism earnings represent 78.6 percent of export earnings in the Bahamas, and 56.6 percent in Jamaica. Clearly the current strategy of over-reliance on tourism is unsustainable, and global warming and rising sea levels further threaten the industry with anticipated erosion of coastal areas, including aircraft landing strips, since most airports are located in coastal areas, with serious implications for the tourism sector.

Development options for the Caribbean are being further limited by the “Harmful Tax Competition” campaign by OECD countries against tax havens, and their blacklisting of most CARICOM countries. The Bahamas, for instance, is a major offshore financial center and tourist economy and has had to deal with both the OECD attack on its financial sector, and the decline in tourism. Antigua and Barbuda’s pioneering entry into the on-line gambling service sector proved very profitable, but was brought to an abrupt halt by the introduction of a US domestic law, the La Falce Internet Gambling Enforcement Act. The Act makes it illegal to use credit cards, electronic fund transfer, cheques, drafts or similar instrument, or the proceeds of any other form of financial transaction as the “Secretary” may prescribe by regulation, which involves a financial institution, in “payment for Internet gambling bets or wagers.” The issues have been taken to the WTO Dispute Settlement Body by Antigua and Barbuda. Caribbean countries are therefore facing both severe declines in their traditional export sectors and limited options in alternative development strategies.

The major strategy that has been pursued to revive the region’s economies and enhance development prospects is the deepening of the integration process through the creation of a CARICOM Single Market and Economy (CSME). This strategy is viewed as a critical requirement for developing international competitiveness. It is anticipated that freedom of movement of labour and capital will allow the maximum utilization of labour in the region, the flow of financial capital to fund investment that will enhance production capabilities, and ease fiscal deficits. It is hoped that the integration of

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production of goods and services could lead to economies of scale and scope, and greater efficiency in resource allocation. This, in turn, should allow CARICOM producers to become more competitive and be able to capture markets both at the domestic level in competition with imports, and in export markets.

The Treaty of Chaguaramas has been revised to give legal expression to the creation of the CSME, and the new provisions are currently being implemented. However, it is recognized that the creation of the CSME could cause dislocation in the less developed countries (LDCs) of CARICOM and the Revised Treaty provides safeguards for these economies. Despite this, there is still great concern in OECS countries and Jamaica, given that even without the CSME, Trinidadian firms and products are penetrating markets, dislocating local producers and establishing their presence very visibly. This is causing much discontent and concern for the survival of local industries in other CARICOM countries.

An essential part of the provisions developed to create the CSME is a competition regime, which now constitutes Chapter 8 of the Revised Treaty of Chaguaramas. The purpose of the competition regime is to prevent the private sector from reversing the benefits to be derived from the removal of governmental barriers to the free flow of goods and services through anti-competitive conduct such as price fixing, or dividing up markets geographically, to the detriment of consumers and competitors. The beneficiaries of this regime are expected to be consumers, but also producers, because it is anticipated that barriers to entry will be removed, and entrepreneurship encouraged. Further, the integration of production of goods and services, which is considered essential to realizing the developmental strategy being embraced, depends on the free flow of investment within the region, which, in turn, has to be policed by the competition regime to prevent barriers to entry being erected by incumbents.

The rules of competition in the CARICOM regime include the prohibition of anti-competitive agreements and abuse of a dominant market position. Chapter 8 specifies in detail what constitutes anti-competitive conduct. Each Member is required to legislate the rules of competition in accordance with Chapter 8, and establish institutional arrangements to enforce the law. A Community Competition Commission is to be created to deal with anti-competitive conducts with cross-border effects. The Caribbean Court of Justice is to provide for appeal from decisions taken by the Community Competition Commission. In addition to Competition Law, CARICOM is introducing a competition policy regime, which requires removal of governmental policies that affect competition in the Single Market. However, the removal of governmental barriers to entry will allow market access only to firms from within the community.

1.2 Assumptions Underpinning Competition Law and Policy

It is quite common that the terms, “Competition Policy” and “Competition Law” are used interchangeably, even by experts in the field. This leads to great confusion, and misleading debate. It is therefore important that these terms are clearly defined, since it
has great relevance for this study. The focus here is on Competition Law, though some aspects of the wider issues related to competition policy are dealt with primarily because they came up very forcefully in the interviews.

Competition Policy, according to Vautier and Lloyd (1997:3), encompasses government’s policies which are “directly aimed at promoting competition among producers, at least to a significant extent.” Thus, competition policy includes competition law, but also includes foreign direct investment policy, privatisation and deregulation, trade policy, foreign exchange policy, and other policies that liberalise markets and promote competition. This view is supported in a Secretariat background paper produced for the WTO Working Group on Trade and Competition Policy, in which it is argued that the instruments of competition policy “can be concerned both with private anti-competitive practices and with government measures or instruments that affect the state of competition in markets” (WTO WGTCP/W/28, May 2003:13).

Competition Law, by contrast, deals only with the conduct of firms, constraining the strategies available to firms as they engage in competitive rivalry (Audretsch et al., 2001, quoted in ibid., p. 14). Competition law normally includes prohibition of anti-competitive agreements, abuse of a dominant market position, and merger control regulation to prevent excessive concentration that could lead to abuse of a dominant position. Competition law, therefore, is a subset of competition policy, being one of the instruments through which governments protect and promote competition in the market. Whereas competition policy impacts upon border barriers and increases market access to foreign goods and services, competition law protects the process of competition within the border. Like intellectual property law, competition law is restricted in its application to the national jurisdiction. Only after a foreign firm gains access to the market by passing border barriers can it benefit from, or be disciplined by, competition law. For instance, a foreign firm may benefit from competition law by gaining access to essential facilities or distribution networks. In short, domestic firms are prohibited from engaging in anti-competitive practices to restrict access to the market, once governments liberalization policies allow entry at the border.

The introduction of competition law is premised on the assumption that a competitive market-driven economy is the most efficient, provides maximum welfare benefits, and that a successful market economy requires a sound competition law to safeguard the competitive process. It is argued that “decentralized decision-making by firms promotes efficient allocation of society’s scarce resources, increases consumer welfare, and gives rise to dynamic efficiency in the form of innovation, technology change and progress in the economy as a whole” (World Bank and OECD 1999:1). Hence, if firms face competitive pressure, they would be forced to produce at the lowest possible cost and sell at the lowest possible price to consumers. In the process, they will make use of resources in the most efficient way, and would innovate in order to have a competitive edge over rivals. It is argued that the market process depends on individual strategic behaviour by firms which collectively lead to general welfare benefits. In the process, firms which cannot improve their efficiency in the face of competition are weeded out. It is recognized that there are winners and losers in competition regimes, but
conventional wisdom holds that the social impact should not be addressed within competition law, but rather, other government policies should address its fallout by providing welfare, re-tooling of labour, and incentives for re-allocation of resources.

While competition forces firms to become more efficient and to offer a greater choice of products and services at lower prices, it is recognized that firms may also have the incentive to acquire rents through collusion, or abuse of market power, thereby causing market failure. For instance, firms may lobby to get legal protection, as is the case with agriculture in the EU. Cartels may fix prices or reduce production so as to increase prices, or a dominant firm may indulge in predatory behaviour, or bar entry to newcomers, or close market access through exclusive arrangements with distributors. The end result is that consumers pay higher prices, may get lower quality products and may have limited choice. Competition law protects the competitive process and ensures that firms do not cause market failure by indulging in anti-competitive practices. It is therefore a complementary instrument to liberalisation of markets, providing ground rules for actors to observe. Industrial policy could be used to support infant industries, as well as exclusions and exemptions from the provisions of the competition law, applied either totally or selectively.

Competition law also complements a regional integration process by ensuring that private actors do not negate the benefits to be derived from lowering or removing government erected barriers to trade, or in the case of a single market such as the EU, the free flow of goods, services and investment. This is the primary purpose for the introduction of a competition regime within CARICOM. It is anticipated that the competition regime would ensure that the objective of promoting development in the region through the integration of industries, and increasing intra-regional trade is not thwarted by private sector anti-competitive conduct.

While there is no doubt that a competition regime would protect the integration process, there is a need to test the benefits that are anticipated within the national economy. For instance, while in large economies with vast resources, including human and capital resources, the competition process leads to efficiency, both static and dynamic, this may not be the case in small economies, which are technology takers, and in which the paucity of resources and structural rigidities do not provide a favourable environment for innovation. Can one realistically expect to stimulate dynamic efficiency in a small open economy by introducing competition law? Or, if competition policy promotes liberalization at borders, can one expect a rapid demise of local industries when faced with unbridled competition from foreign firms, rather than static efficiency? Do CARICOM states have the capacity to address the problems of losers in the regime in the way developed states can? Is there a need to retain governmental barriers to entry at the border into vulnerable sectors in small economies, to protect public interest? To what extent do foreign interests dominate in small open economies, and would a competition regime adequately address anti-competitive practices of these multinational firms? Finally, and very importantly, are the benefits to be derived in the national economy from having a competition regime also applicable in a trade-related competition regime? Can there be an outflow of welfare benefits to foreign producers and consumers in a free trade
arrangement with a competition regime? There is a need to question the basic assumptions on benefits to be derived from a competition regime since these were developed by observing effects of competition in industrial economies and in the context of the dynamics of competition within a domestic economy. Would the effects be the same in small open economies?

1.3 Challenges to Implementation at the National and Regional Levels

While Chapter 8 of the Revised Treaty of Chaguaramas provides the basic framework for the competition regime, there are major problems with the actual process of implementation. At present (September, 2003), a draft model law has been developed, and is under consideration by the Members. There are many challenges that must be faced when introducing a competition law into an environment where there is no experience in the area. As yet, the specifics of such challenges are not fully understood. Only Jamaica, Barbados, and St. Vincent and the Grenadines (SVG) have legislation on competition, and only Jamaica and Barbados have implemented their regimes. St. Vincent and the Grenadine’s law is yet to be promulgated and the Competition Authority has to be established. However, the law has to be first revised to meet the requirements of Chapter 8 of the Revised Treaty of Chaguaramas. Jamaica’s enforcement has been primarily in consumer protection, rather than anti-trust. Barbados’s regime is still very young, having been established in January 2003. Trinidad and Tobago and the OECS countries are in the process of developing laws.

There are very few trained persons in the region, including in Jamaica, where most staff of the Fair Trading Commission (FTC) are unschooled in competition law, and have to learn as they practice. There is also a very high turnover of staff, which means that there is a constant hemorrhaging of human capital. Only in the last year have they been able to enforce anti-trust dimensions of their law that required use of the rule of reason procedure, primarily because they were able to recruit an economist from the United Kingdom. That person has now left the Fair Trading Commission, and while some capacity has been built in the last year, there is still a burning need for professional guidance. There are few, if any, trained competition lawyers and economists practicing in the private sector in Jamaica, and again, they learn on the job. Magistrates and Judges are untrained in competition law, and this makes for problems in rulings.

Wider public education is also needed to create a culture of competition, or else the regime will not afford the benefits to the economies that are anticipated. Consumer organizations, where they exist, have little knowledge of competition law and how it can work in their interests, and the private sector, media and other stakeholders are ignorant of the law and issues of importance to the everyday functioning of their businesses. It is necessary to develop a coherent technical assistance program, based on what is actually needed on the ground for implementation, and developed through empirical investigation.

Implementation measures should be informed by an understanding of the impact which competition law could have on these economies, in order to target problematic
sectors, and at the same time, determine whether there are sectors or industries that may need exclusion or exemption from the law. Included in Chapter 8 is the power granted to the CARICOM Council for Trade and Economic Development (COTED) to determine exclusions and exceptions from the law, but at this point, there is no basis upon which to make determinations in that regard. While in mature regimes, the private sector would lobby for exclusion or exemption, in CARICOM countries this would not happen since the private sector does not have a sufficient understanding of the law to determine its impact on business. It is essential to develop an understanding of the structural characteristics of CARICOM economies, the level of competition in these markets, and discern any vulnerabilities and/or peculiarities which should be addressed in shaping the law in response to specific needs: that is, to determine what aspects of the law are relevant and what may not be relevant in such small economies. Dislocation of firms and sectors could exacerbate already serious socio-economic problems, and this must be taken into consideration when implementing the regime.

For instance, there is uncertainty as to whether Merger Control Regulation (MCR) is relevant for these economies. Chapter 8 of the Revised Treaty of Chaguaramas on Competition Policy does not include MCR, and this was because all states except Trinidad and Tobago argued that MCR was not relevant in such small economies with micro firms, and in which economies of scale are needed to be able to compete with foreign firms in domestic as well as export markets. In the model law that has been developed, and is currently being evaluated by Member States, there is provision for MCR, which is going to generate further debate. Barbados’ newly implemented law has provisions for merger control regulation. However, there is no empirical analysis of the pros and cons of an MCR regime, and whether it is relevant in these economies. This would require some knowledge of the level of concentrations in these economies, how contestable are markets in these concentrated sectors, how vulnerable are firms to take-overs by multinational corporations (MNCs) as a strategy to eliminate domestic competition (in which case MCR is very relevant. Indeed, Argentina introduced MCR in 1999 for the first time, having had anti-trust law since 1926, precisely because of such take-overs by foreign firms).

1.4 Competition Policy Issues in International Trade Negotiations

At the hemispheric level, CARICOM countries are negotiating a chapter on competition policy in the Free Trade Area of the Americas (FTAA) Agreement. Yet these countries are not conversant with the full implications for these economies of this proposed hemispheric competition regime. There are pressing questions to be answered in terms of these negotiations, since the depth of the commitments will far exceed what is anticipated in the WTO, and in the negotiations between the European Union (EU) and the African, Caribbean and Pacific (ACP) states. Among them are the following:

- What would be the effects on the current operations of State Enterprises and Legal Monopolies of Article 2 of the draft chapter on Competition Policy in the FTAA? That article proposes that while Parties are not prevented from having legal monopolies and state enterprises, they must
be subjected to the competition regime in certain respects, which are detailed in the Chapter. It is necessary to take stock of what legal monopolies and state enterprises there are, how they function and what would be the implications of applying the rules of that Article. Only then can CARICOM meaningfully respond to the proposals in the bracketed text.

• The same applies to State Aids. While it is anticipated that that would not be retained in the text, primarily because the US and Canada and indeed, all other parties except Chile, are adamantly opposed to it, CARICOM still needs to understand what it would mean for them economically if state aids are subjected to competition rules, both in their economies, and in those of Parties to the agreement. This can only be assessed if there is an understanding of what State Aids exist, to what purpose, and how useful they are in promoting welfare. There is the possibility that the EU may want this included in their negotiations with ACP states, since they have required it of Eastern European states that are acceding to the EU. However, that is a remote possibility.

• CARICOM countries are arguing on all the negotiating fronts that they need transition time, and special and differential (S&D) treatment, but have been unable to put specific proposals on the table. There is urgent need to examine the economies in-depth in the context of anti-trust rules, to be able to identify areas that require S&D treatment, and what transition time is needed in order to develop proposals and positions for the negotiations.

• An added dimension that presents challenges is the fact that the Bahamas is not a signatory to the Revised Treaty of Chaguaramas, and therefore will not be part of the regional competition regime, but is negotiating the FTAA Agreement together with CARICOM. There are nuances that need to be examined to ensure that the unified CARICOM positions also represent the interests of the Bahamas.

A further challenge on the horizon is the decision at Doha that negotiations on a multilateral framework on competition policy are expected to be negotiated in the WTO following consensus on modalities at the WTO Ministerial meeting in September 2003. CARICOM countries have not participated consistently in the discussions in the WTO Working Group on Trade and Competition Policy (WTO WGTCP) to ensure that issues of concern to them are put on the table and included in the report that was submitted to the Fifth WTO Ministerial Meeting. While issues of concern to small economies were tabled in 2000-2001, there has been no follow-up submissions. CARICOM countries need to determine what those issues are for these small economies, and develop specific areas for benefiting from special and differential treatment. Critical issues to be examined are the implications of applying the core principles of non-discrimination, transparency and due process to a trade-related competition regime, as opposed to a domestic regime,
and the appropriate modalities for cooperation that would bring benefits to developing countries and small economies in particular. With the collapse of negotiations in Cancun, the Singapore issues, and competition policy in particular, remain a key area for discussions at the WTO as members try to recover momentum to the Doha Round of negotiations.

Finally, the negotiations on developing Economic Partnership Agreements with the EU started in September 2002, and Competition Policy is part of that agenda. The EU is one of the main proponents of a competition policy framework in the WTO, so it is anticipated that they would want progress in this area with ACP countries.

1.5 Justification for Research and Research Questions

No empirical study has been done in CARICOM countries on how competition is functioning in these economies, and what are the specific and major competition issues, what are the peculiarities influencing competition in the market that arise out of cultural traits and physical and economic smallness. Without knowing these peculiarities, it is impossible to tailor the domestic law to meet the specific needs of the economies and to implement the regional regime. It is very important to have a well thought out plan for implementation of the regime. The pace of implementation (progressivity), and the choice of provisions that are relevant for the economy (flexibility) are dependent on knowing the environment into which the law is being introduced. The findings of this study will contribute to the development of such an implementation plan.

Empirical information on the functioning of competition in these markets would provide a basis for the development of negotiating positions in the FTAA, WTO and EU Cotonou negotiations. A call for special and differential (S&D) treatment and transition time becomes rhetorical without the specifics to back the demand. So too is the request for technical assistance, without providing information on what specifically is needed, in order of priorities, and with a timetable. At present, CARICOM countries can respond to none of these challenges from an informed position. This study was undertaken to provide empirical data and analyses on competition issues in selected CARICOM countries, as a basis from which to address the questions posed above.

It should be stressed here that the underlying thrust of this research is not to promote liberalization of the economies through competition policy, nor even to promote the introduction of Competition Law. Rather, it is to examine competition issues in the economies chosen for study, and to evaluate the merits and effects of introducing Competition Law. Nor is it the intention of this study to address the question of competitiveness of firms. The presumption here is that protecting competition in the market, the objective of competition law, puts the onus on firms to be competitive in order to survive. It may also generate innovation in economies with the enabling environment, and thus increase competitiveness. However, once again, this should not be confused with issues of liberalization and market entry for foreign firms, since competition law only has applicability in the domestic market (i.e., affecting goods that
have already crossed the border, or foreign direct investment). Competition Policy could include trade policy, and thus, liberalisation provisions.

The research will focus on the following general questions:

1. What level of competition exists in these markets? What are the sectors/industries in which there are competition problems and why?

2. What issues can be discerned specific to small economies that can inform the shaping of a competition regime to respond to the peculiarities of such economies?

3. Are there areas in these economies that may need exclusion or exemption from competition law?

4. Are there aspects of competition law that are irrelevant in these small economies, e.g., merger control?

5. Given what is needed in the internal regime in CARICOM, and the vulnerabilities that are discerned as a result of small size, how do these relate to proposals in negotiations at the hemispheric and international levels (FTAA, WTO, Cotonou), and what positions should CARICOM countries adopt?

1.6 Review of Literature

Very little is written on competition policy in developing countries, and even less on competition policy in small economies. In this section, the focus will be on reviewing two major pieces of work. The first is a study commissioned by the Asia-Pacific Economic Cooperation (APEC) Trade and Investment Committee and prepared by PricewaterhouseCoopers (Pricewaterhouse-Coopers 1999: “Competition Law for Developing Countries”). Case study countries were Korea, Mexico, Malaysia and the Philippines. The other is the seminal work by Michal Gal (2001) on competition policy in small economies.

In the study prepared by PricewaterhouseCoopers, competition law and policy are seen as one set of a broad set of policy tools required to create an efficient market economy, and as such, other government policies need to conform to basic market principles — trade and industrial policy, privatisation, deregulation, regional policy and social policy — in order for there to be synergy. This would promote efficient allocation of resources and provide correct incentives for start-up and growth of efficient firms. Two models for the objective of competition law are presented: the maximization of economic efficiency and/or “public interest,” i.e., employment and income distribution effects. Their conclusion is that different cultures and legal forms determine the
institutions framework in each economy. The study is based on six fundamental questions which, together with the research findings, are summarized below:

1. Are competition laws essential to achieve competition policy objectives, particularly given open economies?

   Some Asian economies have argued that small open economies do not need competition law because imports would discipline domestic firms. The report argued that a liberal trade policy cannot adequately substitute for a domestic competition law because a large proportion of goods and services is non-tradable, and that even where there is a reduction in external tariffs which could impact on domestic price levels, domestic firms may create barriers to entry and growth of imports.

2. How will the introduction of competition laws affect the international competitiveness of domestic firms?

   Competition law is seen by some as a danger to competitiveness since it may limit firms’ ability to grow and achieve economies of scale, and many make it difficult for firms to coordinate their business policies and strategies with domestic rivals by agreement. Merger Control may hinder strategic amalgamation necessary to obtain international competitiveness.

   The researchers examined:

   - the role of economies of scale, minimum efficient scale and optimal number of firms required for achieving competitiveness
   - the relationship between size and efficiency
   - the role of agreements, particularly export agreements, in export success
   - evidence of the links between merger and efficiency
   - evidence on the relationship between Research and Development (R&D) and innovation with firm size.

   The authors concluded, after examining the empirical literature, that concerns that competition law will harm competitiveness are significantly overstated. In their view, economies of scale need not apply even in small economies, providing that exports allow for economies of scale and scope to be obtained. In their view, increased domestic competition and action against anti-competitive practices and agreements will raise efficiency and promote competitiveness. Further, agreements and mergers that generate efficiency improvements would not necessarily be disallowed by competition law. They
also concluded that a case by case approach to competition law would not harm innovation, and hence competitiveness.

3. How will the enactment of competition laws affect the ability to compete for foreign investment vis-à-vis developing economies that have not enacted competition laws?

The empirical research conducted by the authors supported the view that foreign investors are attracted to economies where there is a competition law since it creates an even playing field by preventing domestic firms from creating barriers to entry. The competition law also protects domestic firms from anti-competitive practices by foreigners.

4. What social impact will competition law create?

There is concern that competition law could have a negative impact, since there are losers, and this could result in unemployment. The research findings were that competition would raise overall employment by raising efficiency, lowering prices, stimulating demand and thus increasing employment. It is argued that initial fall in sector employment would be offset because demand would be stimulated in other sectors and employment in the economy as a whole would rise. They suggested that in the transition period, considerable social problems will be created from loss of employment, and that it will be important for governments to introduce social measures such as re-tooling and other measures to assist mobility of the labour force. Coordination between competition and industrial policies will be necessary to ensure that there are no barriers to the creation of new firms and industries.

5. What are the limits and downside risk of enacting a competition law within a society?

In the view of the researchers, if the law is framed and applied correctly, then the benefits of such a law will outweigh any costs. Conflicts with other policies can be resolved in a way that confers the greatest benefit to the economy. It was felt that the competition law should cover cartels and other agreements, abuse of dominant position and mergers, and that the law should apply to all sectors. The argument against limiting the scope and applicability of the law is that the regime will lose credibility. The researchers concluded that while there are risks that wrong judgements may be applied in evaluating cases, these risks apply in all economies, and are unavoidable since very few rules can be proscribed, in practice.

6. What are the difficulties in obtaining support for the enactment of competition law within a society?
The researchers pointed to some key areas that would strengthen a competition regime. Advocacy, both with the public, mainly consumers and producers, and with other government departments are seen as critical to obtaining support for and acceptance of the regime. Transparency and adherence to due process are seen as central in developing the confidence of all groups of society. The use of the rule of reason procedure could lead to uncertainty, so it is important that competition authorities issue guidance on the interpretation and application of the law. Finally, the importance of institutional strengthening was stressed, with the retention of high quality staff provided with adequate wages, guidance manuals, continuous training, both internally and externally, and the training of the judiciary to develop competence in handling competition cases.

In summary then, the recommendations are that even small open economies should have strong competition law proscribing anti-competitive agreements, abuse of a dominant market position and having merger control regulation, and there should be no attempt to limit the scope of the law. This would correct market failure brought about by both structure and conduct, and together with a range of other policies to support the market mechanism, would enhance development, attract foreign investment and discipline foreign investors. It was recognized that there are winners and losers, and the researchers recommend that supportive social policies should be introduced by governments. Competition advocacy and institutional strengthening were seen as necessary in order for the law to gain acceptability and be effective.

Michal Gal also recommends strong competition law for small open economies. Her approach is different, however. She examines in detail the characteristics of small economies and recommends tailoring the law to suit the needs of the economy. She defines a small economy as “an independent sovereign economy that can support only a small number of competitors in most of its industries when catering to domestic demand only,” and which are characterized by monopolistic or oligopolistic structures in most of their industries (Gal 2001:6).

Gal does a partial review of the literature on the peculiarities of small economies which identified several characteristics. These include small population leading to a small number of competitors, and concentrations, but also good competition in certain sectors like retail trade. The view was expressed that small firms could even control world markets. Gal uses economies like Canada, Australia and Israel as examples of small economies, and argues that in these economies, the population is widely dispersed and there are small concentrations of population in towns constituting small markets which have similar problems to small economies. Israel is seen as a small economy because it is politically isolated.
She provides a review of the analyses of the structural problems existing in small economies. The need for minimum efficient scale (MES) of production in small economies lead to concentrations, creating barriers to entry. Small size limits the ability of firms to upgrade technologically since a minimum output is needed to recoup cost associated with purchasing technology. In small economies, technology is usually imported since firms are so small and risk adverse that there is little or no investment in R&D. Cost of producing inputs to production is affected by market size because MES cannot be achieved, so small firms are generally dependent on import of intermediate products. There is a low level of dynamic efficiency in these economies.

This inability to achieve MES negates the possibility of having integrated economies, and so these economies are deprived of the benefits of industry interdependence which greatly increases scale of output necessary for full exploitation of economies of scale (production of equipment, services, intermediate goods and final goods). In sum, there is sub-optimal levels of production, since a considerably large fraction of all output is produced in sub-optimal volumes and sub-optimal plants, leading firms to be inefficient and internationally uncompetitive. Production is less specialized using less specialized equipment leading to higher costs for set up and downtime, and there is limited “learning by doing.”

Another entry barrier faced in small economies is the supply constraint on factors of production, because in small populations, there are scarce skilled human resources and in small economies, there are limited natural resources. Further, if there are vertically linked markets, this requires a new entrant to enter more than one market, thus presenting another barrier to entry. Gal argues that openness creates a larger market since firms can export, and thus increase levels of production. Despite openness, there is still a non-tradable sector created by natural or market barriers, and there could be serious competition problems in this non-tradable sector, requiring competition disciplines. In sum, small economies have high industrial concentration levels, high entry barriers created mainly by the need to produce at minimum efficient scale in order to reduce costs, and suboptimal levels of production because of small market size.

Smallness has an impact on the conduct of firms. Because the business elite is small, they are careful not to compete in each other’s domain. Therefore, there is a high level of interdependence between firms in concentrated markets.

…the lower the number of firms operating in the market and the higher the barriers to entry, the greater the influence each firm will have on the market equilibrium. Firms recognize this interdependence and seek cooperative policies that are more profitable to each of them than when each firm aggressively looks for a larger market share (Gal 2001: 1449).
Gal defines “interdependent behaviour” as explicit or implicit understandings among firms in the market to jointly exercise market power or limit competition (*Ibid*).

This can have adverse effects on productivity and resource allocation, and prices are likely to be above cost. The fixed price umbrella may be high enough to allow inefficiently small firms to enter the market, and capacity is allowed to expand in the wrong locations or in increments that are too small. Moreover, there are costs to excessive concentration in skewed income distribution and adverse social and political impacts.

Gal’s concern is that competition law was developed for different types of economies, and that application of the same law in the same way could be harmful to small economies. There are negative fallouts expected when applying competition law, but while these are marginal cases in large economies, they constitute the mainstream cases in small economies – extremes become the rule. Gal argues that there are different welfare maximization issues in large economies, and that concentrated market structures in small economies create a set of trade-offs that require a different set of rules to regulate the conduct of market participants efficiently. In small economies, the market’s invisible hand has a much weaker self correcting tendency, and therefore, an appropriately structured and efficiently enforced competition policy may be more important than in large economies. She therefore suggests that there is a need to regulate conduct to ensure competition where competition is feasible, and impose limits on conduct of firms operating in markets that are not fully self-regulating.

Having considered the characteristics and structural and behavioural profile in small economies, Gal then evaluates the effects of market size on competition policy and makes recommendations. Whereas the PricewaterhouseCoopers’ study recommended finding a balance between goals of economic efficiency and public good, i.e., distributive justice values, Gal recommends that **small economies should “strive to serve only one master, economic efficiency”, because they are less able than their larger counterparts to afford a competition policy that sacrifices economic efficiency for broader objectives”** (*Ibid.*: 1451. emphasis mine). Wealth dispersion and the creation of small firms are inadvisable because inefficient firms will be preserved in the market. Such protection of small firms would harm consumers.

She argued that in large economies, even if competition policy makes concessions to social goals, “the few islands of market imperfections in a largely competitive sea are not likely to have much adverse incremental impact on the distribution of income and the maintenance of small, dispersed firms.” In small economies, efficiency imperatives require the creation of large firms which may displace small firms. Further, the tendency in small economies for firms to act interdependently increases the probability of lobbying, rent seeking behaviour. “Accordingly, in **small economies social goals should be given little or no independent weight in formulating competition policy**” (*ibid.*:1452. emphasis mine). She defines the immediate objectives of economic efficiency and progressiveness as comprising allocative, productive, and dynamic efficiency.
Given the minimum efficiency scale problem in small economies, the competition policy should strive to strike an optimal balance between structural efficiency and competitive vigor. Gal points to the fact that in large economies, structural variables are used as the main guide in determining the likely consequences of mergers, so that large economies adopt a common approach that signifies the absolute value of competition over increased total efficiency. The underlying assumption was that there was no need for high concentration levels to achieve efficiency. In the US, for instance, a merger was categorically prohibited if it lessened competition substantially.

However, Gal advises that prohibiting all mergers that increase concentration above relatively low thresholds would be economically harmful, and therefore, small economies should adopt a merger policy that is more accommodating of efficiency defenses, and that relies less on structural variables alone or on rigid and limiting structural assumptions. Rather, a case by case or industry-specific analysis of the potential inefficiencies in each specific market setting should be applied.

The argument was made that cooperative agreements may be the only way for market participants to achieve minimum efficient scales and to lower costs to levels that any single firm acting alone could not achieve under the existing market structure. Gal there advised that small economies should reject a policy that views agreements that have the potential to increase productive or dynamics efficiency as illegal per se. She points to the example of Australia and New Zealand which exempt joint buying and selling activities from per se illegality as price fixing if the price-fixing agreement relates to the price for goods or services to be acquired collectively by the parties or the joint advertising of the price for the sale of goods or services collectively acquired.

Gal also advises against the transplanting of simplistic rules of thumb, market thresholds or legal presumptions that are applied in larger markets because these are based on different market conditions. For instance, lower thresholds of market share signifying market dominance should be adopted in small economies, given the prevalence of scale economies, oligopolistic interdependence and higher barriers to entry. In these circumstances, firms are prone to follow the price leadership of a dominant firm, or act interdependently. Thus, in a small economy, a given market share will usually signify more market power than in large ones. In the case of merger regulation, a higher threshold than that used in large economies is appropriate, since firms may not have reached the minimum efficiency scale at the threshold that triggers an investigation in larger economies. Prohibiting such mergers would prevent such firms from realizing economies of scale.

Gal proposed that in small economies, loyalty rebates and discounts should be encouraged since in oligopolistic markets, discriminatory pricing or trade terms may be part of pro-consumer market scenarios in which previously stable oligopolistic price structures are ultimately shaken loose and lowered to the benefit of the public. To forbid them would often reduce efficiency and slow reactions to changed market conduct. However, caution should be exercised to ensure that discriminatory pricing is not used to discipline rivals, and market prices are ultimately
maintained or pushed higher. Discrimination in small economies thus merits a deeper analysis of its real effects on the market, and the signals triggering a more cautious approach are that the market is oligopolistic in nature, potential competitors adopt parallel pricing policies and discriminations are secret, in order to hide it from rival oligopolists.

Gal cautions against using structural remedies too liberally, since they may reduce minimum efficient scales of production, may cause an important dominant player to exit the market and competition is reduced substantially if a new entrant does not replace the sanctioned firm. However, she also advises scrutiny of cross-holdings or joint ventures that may reduce future competition between dominant conglomerates. Such ventures should be prohibited in all markets affected.

While Gal proposes a more lenient policy towards mergers and the internal growth of firms, she advises pursuit of behavioural policy through adoption of strict anti-collusion and anti-exclusionary conduct policy. While it is difficult to prohibit conscious parallelism since it is almost impossible for a market regulator to prescribe a different pattern of behaviour that can be enforced easily, strict anti-collusive policy should be applied to tacit collusions, to help break down oligopolistic coordination and induce oligopolist to operate at higher levels of output and lower prices than they would in the absence of legal consequences. Thus, illegal cartels, the creation and maintenance of artificial barriers to entry, and predatory pricing should be strictly prohibited.

Apart from specific tailoring of competition law in some circumstances, Gal argues the case that basic economic theory and basic doctrines that serve the basis for competition policy in large economies can apply equally in smaller ones, since some conducts are against public interest in any economy, regardless of size, such as collusive conduct and abuse of dominance offences. Further, she posited that collusive conduct or abuse of dominance is generally much higher in small economies than in large ones, due to higher industrial concentration levels and entry barriers, and that remedies for such conduct should usually be conduct-oriented rather than structural. She suggested that offenses such as exclusive dealing, tying, and refusal to deal may affect competition more severely in a small economy.

Several concerns arise from the analysis provided by Gal, when applied to CARICOM economies. While most of the features of small economies identified in the study exist in CARICOM economies, there are some that do not, and there are features of CARICOM economies that are not identified. For instance, there are no firms in CARICOM economies that have the capability to compete in or control world markets. As such, the assumption that the size of the domestic market does not constrain the scale and scope of production does not apply to CARICOM countries, largely because of lack of capacity to penetrate export markets, and where there is capacity, the inability to get past non-tariff barriers erected in industrialized markets. A thorough examination of the characteristics of CARICOM economies will be provided in this study.
While it is true that small markets in large economies have similar issues as small economies, they do not have similar outcomes because of the buffer provided by the state and the opportunities that exist in larger economies that are not available to small economies. It is therefore not appropriate to group CARICOM economies along with Canada, Australia and Israel as small economies.

Gall’s recommendation that economic efficiency should be the sole objective of competition policy and that protection of small firms may harm consumers, is highly questionable when applied to CARICOM economies. The largest firms in CARICOM countries are small, even miniscule, by international standards, and because of the openness of these economies, must face international competition in many cases. Her analysis is devoid of any consideration of the realities of the nature of insertion of small economies into the global economy and international trade, both of which are dominated by multinational corporations operating in an inequitable global economic and trading system. Protection of sectors critical to maintenance of employment or food security may be justifiable in CARICOM economies. This issue will be investigated as part of the empirical study.

Nor does Gal recognize that displacement of small firms by larger firms dictated by efficiency considerations would, in most cases, mean foreign firms or imports displacing local firms and the resulting outflow of welfare from the economy. There is total silence as to where welfare gains accrue when firms in small economies are displaced. Gal’s recommendation that, in small economies, social goals should be given little or no independent weight in formulating competition policy is questioned and critiqued in this study from an empirical basis.

The findings of these two major studies (PricewaterhouseCoopers 1999 and Gal 2001) will be evaluated for appropriateness to small economies through an empirical study in CARICOM countries.

1.7 Project Objectives

The general objective of this study is to provide information and analysis that would allow policy makers and the broader audiences in CARICOM countries to make informed choices on national competition policy regimes suited to their conditions, and on competition policy aspects of international trade agreements currently being negotiated.

The specific objectives of the study are as follows:

1. produce an overview and assessment of the conditions under which competition is functioning in the six countries chosen for study;

2. identify characteristics peculiar to small open economies that can have an impact on how a national competition regime should be shaped and implemented so as to serve the developmental needs of these economies;
3. provide insights into the level of intra-regional competition and identify related obstacles to the implementation of the CARICOM Competition Regime;

4. provide information and analysis that would allow the development of specific positions on special and differential treatment and technical assistance needs in international trade negotiations on competition policy;

5. provide information that would contribute to formulation of positions on specific issues in trade negotiations (i.e., Treatment of Legal Monopolies and State Owned Enterprises, State Aid, and Modalities of cooperation between Competition Authorities needed by small economies);

1.8 Methodology

Scope of Research

The research is premised on the fundamental question of whether competition law and policy are useful instruments for enhancing development in small open economies, and/or how they can be utilized to enhance development. Therefore, the assumptions about the benefits to be derived from the competition regime articulated above were questioned throughout the research and underpinned the whole enquiry. The theoretical premises of competition law were questioned for relevance to CARICOM economies, particularly when extended to the trade dimensions. It is a foregone conclusion that competition law will be introduced into CARICOM countries that are members of the CSME. The findings of this research could inform the shaping of the law and timing of its introduction (the concepts of flexibility and progressivity used in the WTO Working Group on Trade and Competition Policy (WTO WGTCP)).

Research was conducted in six CARICOM territories. Countries were chosen for case studies based on differences in the scope and nature of economic activities, so as to get a cross representation of CARICOM economies. Countries chosen were:

1. Trinidad and Tobago – largest and most diversified economy in the region;

2. The Bahamas - the most wealthy economy in the region, with its off shore financial sector and tourism industry;

3. St. Lucia, with bananas, tourism, and also the seat of the OECS;

4. St. Vincent, as a really small economy;

5. Belize – representing one of the mainland territories, and where there is a non-tradable sector that is very concentrated and where there are competition concerns;
6. Jamaica, the only country that has implemented competition law. The aim would be to examine their experience in enforcement, and what changes have occurred in the economy since the introduction of competition law.

An international advisory panel of experts was established to guide the researchers. The lead researcher was assisted by a country counterpart from each of the countries chosen for the empirical exploration.

The project was implemented in three phases:

1. Researchers collected available information (secondary sources) on the economies and government policies from published and unpublished documents, and produced a profile of the structure and industry concentration in each economy.

   A brainstorming session was conducted with the Advisory Committee to evaluate the Phase 1 reports, and to flesh out the specifics of sectoral focus for Phase 2 and fine-tune the focus for interviews. (With such experts gathered in the region, we took the opportunity to conduct a teaching workshop on Competition Law, to advance the educative process).

2. The Researchers gathered information through interviews on how competition is functioning in the various markets and where the law would be most effective in removing distortions. A draft report on the empirical findings from the interviews was produced.

3. An evaluation workshop on the findings of the interviews was conducted with the experts group and key stakeholders. This final report was written taking into account the comments made at that workshop

**Data Collection during Phase 1**

The primary question addressed was, what level of competition exists in these markets?

To answer this question, it was necessary to examine the extent of openness of the market through an examination of the structural characteristics of the economy, the level of competition from imports and foreign direct investment, the role of government in production, and government’s policies that impact on competition in the market.

Information was gathered in the following areas, (though in some countries, the data were not available).

(1) Industry structure
a. Profile of domestic economies: major resources; leading sectors; size of economy; trade balance; capital flows
b. Ownership structure: domestic/intra-regional/state-owned/foreign
c. Foreign affiliates share of output (data unavailable)
d. Levels of concentration in the market; natural monopolies; industry concentration; ownership concentration; market concentration; size of establishments – to determine extent of economies of scale
e. Identify non-tradable sector- goods and services

(2) Extent of intra-regional investment and trade, and barriers to such trade

(3) Information on market dynamics

i. Level of imports compared to domestic output in selected goods and services to get picture of national and international competition (unavailable)
ii. Data on entry and exit of firms in selected industries (unavailable)
iii. Variability of market shares as an index of actual competition (unavailable)

b. Government policies which restrict or impact upon competition

i. Trade policy:

a. tariff; non-tariff barriers
b. regulations (licenses, quotas, local standards; price control, voluntary export restraints)
c. anti-dumping and countervailing duties

ii. Industrial policy (national champions; barriers or limits to entry (license; permits)

iii. Foreign Direct Investment (FDI) policy

iv. Any other barriers created by government (start up and regulatory costs etc.)
v. State Enterprises, legal monopolies and the privatization process

vi. Regulated sectors, and extent of deregulation and application of competition principles
vii. State aid, such as financial assistance to firms, and do they serve a developmental purpose?

a. Direct transfers to firms
b. Subsidized loans
c. Sale of inputs at below market prices
d. Purchase of outputs at above market prices

(v, vi, and vii were included in order to be able to develop a position on the proposed text on these areas in the draft bracketed text on competition policy in the FTAA).

viii. Institutional design and procedures (i.e., characteristics of CARICOM Institutions (important for the enforcement of public policies) and national institutions. The CARICOM Secretariat commissioned a study on institutional design in CARICOM countries. It was intended that this study would draw upon the findings of that report, so as to avoid duplication of work. Unfortunately, the report was not yet ready for public release at the time of the finalization of this final report.

There is a paucity of data, especially in the OECS countries. Every attempt was made to construct as extensive a profile of the economies as was possible.

At the brainstorming session at the end of Phase 1, it was decided that the researchers should focus on the following sectors that would allow cross-regional comparison.

- The telecommunications sector (and other utilities where possible)
- The Banking Sector
- Specific products - chicken, cement, flour
  Service - ground transport; tourism
- The problem of high maritime cost
- Restrictive business practices by international tour operators

Within each country:

- Gain an understanding of the political economy which explains concentration of wealth
- Examine competition in upstream markets to production where relevant
- Provide an analysis to sectors specific to countries where there may be competition issues

Explain why some sectors are more resilient across countries and within countries.
Data Collection during Phase 2

This phase involved visits to the countries, and collection of information primarily through interviews with a cross-section of persons familiar with the workings of the firms/industries chosen for study, and government technocrats familiar with the policies that limit competition in the market. It was necessary to gather further secondary sources of documentation to supplement findings during Phase 1.

The interviews conducted in Phase two were open-ended and wide-ranging, so that questions specific to the industry were posed, as well as questions requiring views as a consumer. Technocrats and private sector representatives, as well as consumers were interviewed, though most countries did not have consumer organisations.

Persons interviewed included

1. Senior economists and other technocrats in
   - The Central Bank
   - Ministry of Finance
   - Ministry of Trade and Investment
   - Ministry of Tourism
   - Insurance Supervisor
   - Legal Ministry/Office of the Attorney General
   - Business Licensing Office
   - Public Utilities Commission

2. The CEOs/ED, Legal Counsel, and Senior Economist at the electricity, water, and telecommunications corporations.

3. CEOs and Financial Managers of Banks and Insurance Companies.

4. Personnel from Trade and Professional Associations, such as the legal association, the Chambers of Commerce, the Manufacturing Association, the Trade Union.

5. Directors of Consumer Associations/Consumer Ministries

6. Selected members of the private sector who are identified as important players in the economy.

The following criteria guided the choice of sectors/industries that were studied:

1. Regulation of industries that have common problems across the region, e.g., telecommunications, delivery of cable TV, energy.

2. Industries that are trading heavily intra-regionally, e.g., commercial banking, insurance, beverages, to discern barriers to intra-regional trade.
3. Trade Associations (e.g., Poultry), Professional Associations, to discern barriers to entry or collusion.

4. Non-tradable sectors – which are most likely to have anti-competitive conducts, e.g., local transport and other services.

5. In each country, the sectors that are deemed to have most competition problems, if they do not already fall into one of the above categories.

6. Industries dominated by resident MNCs (if they do not fall into one of the above categories) to discern any misconduct and problems which these small countries may have in enforcing the law.

7. Any sector that may display unique characteristics in small economies.

Some issues addressed in the interviews were:

- Are there constraints to competition erected by firms with market power, or through perceived collusion by a number of firms, resulting in loss of consumer welfare, e.g., predatory behaviour, restrictive business practices.

- Vertical restraints, e.g., supply restraints, abuse of dominant position.

- Collusion to fix prices, allocate markets, bid rig, boycott, etc.

- Are there barriers to entry of new and/or small firms, or foreign firms that are erected by incumbents, e.g., brand loyalty, heavy advertising, and small size of markets?

- Views on intra-regional competition, and effects on domestic firms.

- Do government erected barriers to competition serve developmental purposes?

- What are the major problems faced by your business?

**Challenges to Implementing the Competition Regime**

It was intended that this research would seek to supplement the findings of a study commissioned by the CARICOM Secretariat which addressed some aspects of this issue. However, up to the time of finalizing this report, the findings of that study were unavailable to the public.

(1) Is there political will to introduce competition law?
(2) What is the culture of competition in the various economies?

(3) How much awareness of the provisions and functioning of competition law is there amongst the various stakeholders? What is their attitude to competition law?

(4) How can the government persuade the private sector and consumers to have confidence in the Competition Authority?

(5) What are the concerns of the private sector on the implementation of competition law?

(6) What is the capacity in these countries for introducing a competition regime?

(7) Evaluate the cost/benefit of introducing competition law, looking at the question of economies of scale, economic opportunity cost / priorities. Monopolies are inevitable in small economies, so how much space is there for competition?

(8) What are technical assistance needs?

(9) What plan of action is recommended for introducing competition law applying the concepts of flexibility and progressivity?

(10) What institutional design is best for these countries, e.g., developing a single Competition Authority for the OECS countries?

In the case of Jamaica, however, the purpose of the research was to understand the process of introducing the regime, the experiences in implementation of the regime, and the problems/successes that were encountered.

The aim was to use the analysis of the Jamaican experience to offer lessons for the rest of CARICOM as it proceeds with developing and implementing competition law. Further, valuable information could be gleaned to develop policy recommendations for technical assistance, and special and differential treatment, if necessary.
Questions Specific to Jamaica

1. The Law
   a. are the major provisions of the Jamaican law?
   b. What lessons have been learnt from implementing the law that could be used to What technical assistance was received in drafting and introducing the law?
   c. How did Jamaica go about preparing the stakeholders for the introduction of the regime?
   d. What was done to win over the support of stakeholders and which stakeholders?
   e. What improve it, i.e. the drafting of the law?
   f. How active is the Fair Trading Commission in advocacy with other government agencies?
   g. What programmes to educate stakeholders have been undertaken?
   h. How do stakeholders in the society view the law and the institution?

2. Implementation
   a. What is the capacity of the FTC to enforce the law?
      i. Resources
      ii. Number of staff
      iii. Qualification of staff
      iv. Salaries
      v. Staff turnover?
      vi. Physical facilities
      vii. Library facilities
      viii. Computerized data bases
   b. Experience in enforcing the law
      i. What cases have been brought, successfully and unsuccessfully?
      ii. Select some cases and trace effects on sector or industry
      iii. View on relevance of Merger Control Regulation

3. Cooperation on cross border issues
   a. Has the FTC had to deal with any international cross border issues; what has been the FTC’s experience on cooperation on cross border issues?
   b. Has the FTC intervened in any merger cases taking place outside of Jamaica, or seen the need to, or was constrained in doing so, and why?
c. Has the FTC been asked by other competition authorities to cooperate and exchange information related to cases?

d. What would be the FTC’s view on the cooperation needs (i.e., depth of cooperation modalities) for CARICOM vis-à-vis third parties?

1.9 Problems Encountered in Implementing the Project

The research project was crammed into a very tight time schedule, and this led to problems of sacrificing depth in order to meet deadlines. However, at the time that the proposal was developed, a deliberate choice was made to have a short time span for the project, and collect information only to the extent necessary to be able to make policy recommendations for the developing of a CARICOM regime on competition policy, and to formulate positions for the FTAA negotiations on competition policy. Despite the tight schedule, the project was on target until the production of a draft final report for the review workshop. While the findings of the interviews were written up, the full final draft report was not completed. However, the material was sufficient to generate useful discussion and recommendations for refining the finished product. The information was also available to meet the needs of the trade negotiations.

All the researchers encountered difficulties in obtaining data because of unavailability. It was surprising to find that in most countries, there were no data on foreign direct investment (FDI), this despite the fact that FDI dominates the economies. Lists of companies with majority foreign shareholding are unavailable in most countries. Trinidad and Tobago was the only country that provided good information of FDI but even for this country, data were unavailable on share of output. In Belize, the Tourism Board classifies as domestic all companies that are incorporated locally, and does not take into account the residency of the shareholders. The fundamental problem is that the methodology for data collection is no longer compatible with what is required today to understand Caribbean economies.

Researchers also encountered problems of less than full cooperation from persons in agencies from whom data were requested. It was felt that the priorities of the agencies from whom information was requested were different and so they did not invest the required effort to obtain the information. The tight time-frame increased this problem. There were, however, many instances of full cooperation.

Despite these problems, the country profiles are very useful documents because the information contained therein is not easily available, particularly for the smaller economies. These papers will be published separately as updates on selected CARICOM economies, as a bonus output of the project.

In most countries, we were unable to get hard data on ownership structure. Real Estate agencies were helpful in giving descriptive views of ownership concentrations. Information on foreign affiliates share of output was also unavailable, as were data on
size of establishments, and data on entry and exit of firms in selected industries, and variability of market shares. Data collected were therefore concentrated in the basic profile of the economy and government policies.

The country counterparts did a good job in setting up interviews with relevant persons in the various countries and we were able to cram into one week for each country an impressive number of interviews over a wide range of sectors. There were a few instances, however, when we had problems securing an interview. This was the case with the St. Lucian Electricity Corporation which adopted a very cautious and defensive approach. There was definite hostility from the Bar Association of the Bahamas which in itself was a reflection of the politics of relations between foreigners and locals and between small black law firms and the dominant white controlled law firms. The meeting was very unproductive since it was felt that a Bahamian should have been doing this research - a perpetual problem of ownership in the Bahamas. Further, there were bitter complaints about the moves by the government to join the WTO and the FTAA. Bahamians are very much against liberalization.

A problem encountered during the interviews in all countries except Jamaica was that the stakeholders had little or no idea what is competition law. We had to do considerable explaining before we could get the interview underway. One advantage of this ignorance was that interviewees were not cautious about reporting on their conduct, quite innocently revealing information about which a more knowledgeable business person would have kept silent. There was too, a lethargic attitude in several countries. The business sector in St. Vincent, for instance, was not interested in learning about competition law, or even the FTAA process. A presentation to the Chamber of Commerce did not happen because only the President showed up. The final workshop was held in St. Vincent so that the private and public sectors could benefit from the presentations and discussions. However, no private sector persons attended the opening ceremony and only one private sector person showed up for a few sessions, this despite the fact that the Prime Minister, in his feature address at the opening ceremony, admonished the private sector for their disinterest. There were several public servants present. The countries in which there was the highest level of interest and cooperation from the private sector were Belize, the Bahamas and Trinidad and Tobago.

Another problem encountered in interviews, especially in Belize, but certainly in all the territories, was the pre-occupation of the business sector with competition from external sources displacing local firms, rather than concerns about antitrust issues. In Belize, in particular, it was almost impossible to get the business sector to talk about competition law issues. Rather, their concerns centered around the need to protect the agricultural sector in particular from imports, the scarcity of foreign currency and the need to maintain and increase export levels, but at the same time, the need to conserve foreign reserves by import substitution. In Jamaica, the private sector was preoccupied with concerns about security in the face of the high rate of crime, and the additional cost that is incurred to provide security. They were particularly concerned with the criminal element of the informal sector and the impact on their business of these activities.
This matter reared its head in all the economies, that is, the issues surrounding the “unfair competition” from the informal sector, so much so that it was decided that a section of the final report should address this issue. So too were concerns about the lack of good governance in these economies, and the impact which this has on competition. Indeed, the issue of governance so overwhelmed other issues in interviews in many of the countries that a section of the final report has been devoted to this topic.

The methodology adopted in this research has its limitations, since interviews are not the most rigorous source of information. However, literature on competition policy in CARICOM countries is non-existent and empirical data on competition policy in economies the size of CARICOM’s (real small economies, as opposed to Canada, Australia and Israel) are also non-existent. The research findings suffer from the limited information available, and the self-imposed time constraint which made further in-depth primary work impossible. However, the objective of the research was to get an initial understanding of competition issues in these economies, sufficient to be able to feed into urgently needed policy formulation. There is room for expanding this work and conducting in-depth studies in various sectors.

1.10 Structure of the Report

Section 2 of the report describes the structure of the economies being studied, and the level of openness of the economies. This provides insights into the areas where competition problems are possible and the choice of sectors to be examined. Specific attention is paid to the level of state aid and legal monopolies in order to analyse the relevant provisions in the draft chapter on competition policy in the FTAA.

Section 3 of the report provides a sectoral review of the findings of the interviews in the six countries. The sectors studied are Banking, Tourism, the Production and Distribution Sectors, Local Ground Transport. Governance issues and the challenges posed by the informal sector are described and analysed because they featured so strongly in the interviews. The Regulated Sectors are examined in Section 4, with a specific focus on telecommunications. The performance of and challenges faced by the performance of and challenges faced by the Jamaican Fair Trading Commission are reviewed.

In Section 5, the findings are reviewed and analysed, and then juxtaposed against the findings of PricewaterhouseCoopers and Gal to draw out analyses specific to small economies that may be revealed by this research. This section also provides policy recommendations for the implementation of the CARICOM Competition regime, and external trade negotiations. The need for flexibility and progressivity is examined in view of the research findings, and specific recommendations on responses to text in the Draft Chapter on Competition Policy in the FTAA is provided.
SECTION 2

A PROFILE OF CARICOM’S SMALL VULNERABLE ECONOMIES (SVEs)

2.1 General Profile

Apart from the three mainland states of Suriname, Guyana and Belize, CARICOM consists of small island states, lying in the geo-political shadow of the United States of America, with small size of population, ranging from less than 100,000 in some states, to 2.6 million in Jamaica. For the most part, with resources limited to beaches, coral reefs and fisheries, the economies are dependent on tourism to generate most economic activities. Production for export of bananas, sugar and citrus dominate some economies, though the banana and sugar industries are in severe decline. The exceptions are Trinidad and Tobago, which has a petroleum and petrochemical industrial sector, with reserves of crude oil and large reserves of natural gas, and Jamaica and Guyana, with bauxite reserves and gold in Guyana. Jamaica also has reserves of gypsum and limestone, and its marine resources allow it to have a fairly large tourism sector.

The largest economy, Trinidad and Tobago, has an annual GDP of US$8.9bn (2001 in market prices), followed by Jamaica with US$6.9bn. and the Bahamas US$5.2bn. The other economies under study generate less than US$1bn., with the smaller islands having an annual GDP of less than US$500m. The high annual GDP generated by the Bahamas can be explained not only by its large tourism sector, but also by its long-standing and highly developed off-shore banking sector. Foreign banks register and operate in the Bahamas, attracted by its tax-free policy. The percentage of imports to GDP (37.80 percent) does not reflect production of goods in the Bahamas, however, since the vast majority of consumables is imported (Table 1 below).

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3 CARICOM consists of Antigua and Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat (still a colony of the UK), St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines (SVG), Suriname, Trinidad and Tobago. Within CARICOM, there is a sub-regional grouping, the Organisation of Eastern Caribbean States (OECS), consisting of seven states: Antigua and Barbuda, Dominica, Grenada, Montserrat, St. Kitts and Nevis, St. Lucia and SVG. The OECS countries and Belize are regarded as less developed countries (LDCs) within CARICOM, while the others, Barbados, Guyana, Jamaica, Suriname and Trinidad and Tobago are defined as more developed countries (MDCs). Special and Differential treatment is accorded to the LDCs.
Table 1 below shows the contribution of major sectors of the economies under study. In the case of the Bahamas, tourism and offshore banking contribute 55 percent of annual GDP, while fisheries/lobster/crayfish contribute 5 percent (important because of the high local content value). In the case of Jamaica, there has been a severe decline in the contribution of manufacturing to GDP - from 17.9 percent in 1992 to 12.5 percent in 2000. Bauxite and alumina have contributed only 7.4 percent of GDP while agriculture contributed 5.9 percent. Jamaica has developed a major transshipment service which, along with Freeport in the Bahamas, are major transshipment points for long distance freight destined for the Caribbean and Latin America. Petroleum is the major contributor - 22 percent of GDP - in Trinidad and Tobago, with manufacturing at 8 percent.

There has been a serious contraction in the agricultural sector of St. Vincent and the Grenadines and St. Lucia, so that in St. Lucia, agriculture contributed only 5.9 percent of GDP in 2001, down from 14.6 percent in 1990 and 8.75 percent of GDP in St. Vincent, down from 21.1 percent in 1990. Tourism has increased rapidly in recent times in SVG contributing 35.7 percent of GDP in 2000. Between 1991-2001, all the economies under study registered a balance of payments deficit except Trinidad and Tobago, whose oil and gas revenues have kept the economy buoyant.

Most of the CARICOM states have very small land size, consisting of only a few hundred square kilometres (e.g., St. Vincent and the Grenadines - 389-3 sq. Km.) to the largest island state, Jamaica with 10,991 sq. km. The continental states have much more geographic space (Belize - 22,965 sq. Km) but this advantage is tempered by the very small size of population - 256, 200 - and an annual GDP of US $835.1 million in 2001. Moreover, the limited population is dispersed over a large land area, creating little more than villages in most areas: small market size is a defining feature of these economies. Table 1 below provides some relevant statistics on the six economies chosen for study.

An endemic problem faced by CARICOM’s economies is the difficulty of transporting goods. Because they are island states mostly, sea-transport is the only economical option, with perishables being air freighted, leading to far higher costs than for goods which are transported over land. The region is off the major transatlantic cargo shipping route, so goods destined for this region must be off loaded at a transshipment point, and then re-shiped in smaller vessels, adding tremendously to cost. Transport also suffers from diseconomies of scale, given the small population to be serviced, and this has implications for competition, a point that will be explored later in the report. Even within the region, transport is difficult because of limited intra-regional transport facilities. For instance, all goods shipped from Belize to other CARICOM countries must go through Miami, increasing cost considerably. Geographic remoteness and being separated by sea therefore create serious economic disadvantages, together with the fact that transport routes were shaped by the needs of the metropole, and remain so today. The Bahamas is particularly stricken by the problem of remoteness and vast expanse of sea separating the archipelago of 700 islands stretching for 86,000 square miles, making supply of goods and services extremely difficult, including utilities and transport.

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<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>BAHAMAS</th>
<th>BELIZE</th>
<th>JAMAICA</th>
<th>ST. LUCIA</th>
<th>SVG*</th>
<th>TRINIDAD &amp; TOBAGO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Area (sq. km)</td>
<td>13,864</td>
<td>22,995</td>
<td>10,991</td>
<td>616</td>
<td>389.3</td>
<td>5,128</td>
</tr>
<tr>
<td>Population</td>
<td>296,000</td>
<td>265,200</td>
<td>2,600,000</td>
<td>163,300</td>
<td>111,900</td>
<td>1,300,000</td>
</tr>
<tr>
<td>Leading Sectors</td>
<td>Offshore Finance, Tourism, Fisheries</td>
<td>Agriculture Tourism</td>
<td>Distribution Bauxite &amp; Alumina, Tourism, Garment Assembly</td>
<td>Tourism Agriculture</td>
<td>Tourism Distribution Agriculture</td>
<td>Petroleum Distribution Finance/ Real Estate Manufacturing</td>
</tr>
<tr>
<td>Annual GDP (USD) (2001)</td>
<td>5.17 billion</td>
<td>835.1 mil.</td>
<td>6.89 bil.</td>
<td>661.6 mil.</td>
<td>348.26 mil.</td>
<td>8.9 bil.</td>
</tr>
<tr>
<td>Imports as % of GDP 2001</td>
<td>37.8</td>
<td>62.8</td>
<td>46.28</td>
<td>61.2</td>
<td>60.47</td>
<td>41.5</td>
</tr>
<tr>
<td>Trade Balance (2001) (Current Acc.)</td>
<td>-152.2 mil. US</td>
<td>-213.7 mil or -189.9 mil for 2002</td>
<td>-1.81 bil.</td>
<td>-211.5 mil. US</td>
<td>-123.4 mil. US</td>
<td>+430.4 mil.US</td>
</tr>
<tr>
<td>External Debt (USD)</td>
<td>345.4 mil.</td>
<td>568.6 mil.</td>
<td>7.51 bil.</td>
<td>33.2% of GDP</td>
<td>46.3% of GDP</td>
<td>1,637.6 mil.</td>
</tr>
<tr>
<td>Unemployment (%) 2001</td>
<td>6.9</td>
<td>9.5</td>
<td>15</td>
<td>25-30 (estimated)</td>
<td>20.78 (estimated)</td>
<td>11</td>
</tr>
<tr>
<td>Inflation</td>
<td>2.0</td>
<td>2.3</td>
<td>6.9</td>
<td>3.1 (average)</td>
<td>0.9</td>
<td>5.8</td>
</tr>
</tbody>
</table>

Source: UNECLAC and Country Counterpart Reports

*St. Vincent and the Grenadines

### Structure of Economies

The very pillars upon which these economies were built supported openness, begin shaped during colonial times to produce for export, and to meet consumption needs through imports. As such, sugar cane and banana production shape the landscape and the cultural and socio-economic features of the territories. In the case of Belize, the lumber industry was the sole economic activity until the mid-nineteenth century when migrant indigenous Indians started agricultural production. Petroleum was extracted from Trinidad from the early twentieth century, while Jamaica’s and Guyana’s economies became dominated by bauxite extraction. Export specialisation at the low end of the production chain was, and is, a defining feature of these economies.

Banana plantations were developed in the Windward Islands during the 1940s, initiated by the British government as a way of procuring the fruit without paying in foreign currency, which was in very short supply during and after World War Two. Thus St. Lucia, SVG, Dominica and Grenada relied almost exclusively for income, foreign currency earnings and employment generation from the banana industry. The successful US challenge of the EU preferential market for bananas has sent that industry into decline with serious socio-
economic consequences. Some 40 percent of employment and 14 percent of GDP in St. Lucia were generated by the production and export of bananas. The unofficial unemployment figure in St. Lucia is currently 25-30 percent and it is speculated that it could be considerably higher, while SVG’s is estimated at 20.78 percent. Export earnings in St. Lucia fell from EC$254.8 in 1994 to EC$120.9 million in 2001 as a result of the decline in banana and manufactured exports.

An important feature of the banana industry in these countries is that they are small peasant holdings of five acres, family owned and farmed, and employing the majority of the population in planting, harvesting, transporting and packing for shipment. This is very unlike the large plantations in Central and South America currently owned by giant US multinational corporations, using highly mechanised systems of production and transport and cheap labour. By contrast, transport down steep mountain slopes in the Windward Islands is done by packed animals and small vehicles. The industry has been plagued by repeated hurricane damage, and is recovering from extremely low levels recorded in 2001 in the wave of drought and an outbreak of leaf spot disease.\footnote{The Economist Intelligence Unit, 2002 p. 47.}

In much the same way, sugar is a very important export product to many CARICOM countries, (including Trinidad and Tobago, Jamaica, Belize, St. Kitts and Nevis, Barbados, Guyana, Suriname) because of employment generation and high local content which increases net foreign currency earnings. Sugar also has its roots in the colonial plantation system, re-shaping the Caribbean cultural landscape totally through importation of peoples via the African slave trade, the Indian Indenture System, and the import of Chinese and white indentured labourers. The indigenous population was decimated during the first wave of European expansion. Like bananas, sugar export is now under threat by a challenge in the WTO, and also because liberalisation has eroded the value of the preferential tariff. Rationalising and/or dismantling the sugar sector has very disturbing socio-political consequences, because of the high level of employment generated by this industry. The dominance of the Indo-Trinidadian population in this sector in a political regime that is Afro-Trinidadian dominated makes it a politically sensitive matter. After decades of procrastination, the current political directorate has finally dismantled the existing structure of the sugar industry, laid off workers with compensation, and is restructuring the industry to organize it on a commercial basis. Needless to say, there are many problems and obstacles to achieving this end.

Most exports from these economies are tied to internationally fixed prices. That is so for the majority of agricultural products, as well as bauxite and petroleum and petroleum by-products. These agricultural products are exported to preferential markets in Europe, under the LOME / Cotonou Agreements and the Caribbean Basin Initiative (CBI) and The Caribbean Canada Agreement (CARIBCAN) providing special trading arrangements with the US and Canada. CARICOM countries have therefore never had to compete openly on the international market, having moved from colonialism to preferential arrangements. With the wave of liberalization sweeping the world-order, there has been serious erosion of preferential markets, and a consequent shrinking of CARICOM’s economies. A distinguishing characteristic of these small economies is that a single negative change in
trading arrangements can cause a decline in the single leading sector of the economy with immediate impact on the entire economy. During 2001, member countries of the Organisation of Eastern Caribbean States (OECS) registered stagnant growth (-2 percent) at the aggregate level, reflecting declines in the most important sectors of their economies, i.e., the banana and tourism sectors.\(^6\)

Specialisation in commodity production has led to structural rigidities in these economies. There are little backward and forward linkages in production systems in the economies, with little value-added production at the higher end of the product chain. The economies have relied heavily on final assembly in its manufacturing sector which, apart from Trinidad and Tobago’s, is very basic and small. Despite the long history of a petroleum industry in this country, production has not gone further upstream to production of higher value added products like plastics. The business sector is very risk adverse, and investment in research and development is miniscule in some, and non-existent in most economies. Rather, economic activities centre around commerce, since consumables are by far and large imported, as well as capital goods and inputs to production.

Where there has been foreign investment in manufacturing (outside of the mineral sectors), they have been in the production of apparel and small electronics for export to the US, linked to access the preferential markets created by the CBI. Since the creation of NAFTA, these firms have relocated to Mexico leading to a significant drop in export earnings for St. Lucia and Jamaica. For instance, Jamaica’s apparel exports declined through the entire second half of the 1990s, growing from US$388 million in 1993 to US$537 million in 1995, but declining to US$268 million in 2000.\(^7\) Jamaica’s apparel industry in the Export Processing Zones disappeared with the creation of NAFTA. In St. Lucia for instance, only a few firms still produce electrical components which are exported to the US and UK.

There is growing dependence on the tourism industry to fill the shortfall created by the decline in the banana and sugar industries. However, this sector is also fraught with vulnerabilities since performance depends in trends in the economies of Europe and North America from where tourist arrivals originate. Slowdown in growth in these economies during 2001 resulted in a deterioration in the macroeconomic conditions in the Bahamas and other tourist destinations in the Caribbean during that year, and this slowdown was severely aggravated by the terrorist attack on the US on September 11, 2001. There has been a serious downturn since the attack on the US in September 11, and the subsequent war on terrorism. There has been a shift in the routes of cruise lines to destinations in the Northern Caribbean since September 11, to facilitate service from home ports on the US mainland. Belize has been a beneficiary of this shift, but OECS countries have suffered. In the Bahamas, for instance, tourist arrivals fell by 0.4 percent in the last quarter of 2001. This contrasted with the 2000 outcome when arrivals grew by 15.5 percent. Receipts declined by

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3.5 percent to US $1.8 billion following a 14.6 percent strengthening in 2000. This decline impacted immediately and dramatically on employment, with more than 40 percent of the tourism work force being sent home in the immediate week following September 11. The Bahamas has been very successful offering offshore banking services from the early 1960s, and other CARICOM countries have tried to emulate the model. However, the “Harmful Tax Competition” campaign by OECD countries against tax havens, and their black listing of most CARICOM countries have made that development option tenuous, at the least. Meeting the requirements of the OECD and, more recently, the US Patriot Act have increased cost because of the number of security measures that must be put in place.

This high dependence on external trade creates a corresponding dependence on exports to generate foreign currency earnings to pay for consumables, leading to an extreme level of vulnerability with regard to food security. Export earnings are either from commodity products whose prices are fixed externally, in a mostly declining and sometimes volatile price market, or from an equally volatile tourism sector. Declining terms of trade and negative balance of payments accounts are constant features in most of these economies, as shown in Table 1 above. The exception is Trinidad and Tobago which has benefited from the rise in price of crude oil resulting from the political instability in the Middle East. High dependence on external funding to meet development needs means that these economies are all burdened with a high external debt, with Belize’s debt being 65.5 percent of GDP. A sector that could be generating considerable export earnings for CARICOM countries, particularly in Trinidad and Tobago and Jamaica, is the export of music. The creativity of the Caribbean in producing music is unquestionable. Yet the artistes get little reward for the use of their music in the developed countries. All the mini carnivals which mimic the Trinidad and Tobago Carnival (Nottinghill, Miami, Brooklyn, Toronto) and use soca music produced in Trinidad and Tobago, are not monitored for use of copyrighted materials. There is a structural problem in the collection of royalties that is directly linked to size. The collecting agencies in the US and other developed countries only monitor and collect royalties for music whose frequency of use fall above a defined threshold. The music which falls below that threshold is ignored. While the quantum may be small in this context, it represents a considerable loss of earnings for these small economies and small artistes.

The narrow tax base as a result of limited economic activities means that governments in most of the CARICOM countries have grown to rely heavily on tariff revenue for their income. The reduction of tariffs as a result of liberalisation undertakings, the dampening of trade, and in response to the obligation to meet the Common External Tariff (CET) of the Common Market have led to a serious decline in governments’ revenue. For instance, in 2002, 37 percent of government’s revenue in Belize came from tariffs, and in the Bahamas, import duties constituted 43.4 percent of total government revenue, a significant contraction from the previous year, reflecting the decline in tourism and the resulting impact on disposable income and the reduction in consumption, both individual and business. For

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9 Central Bank of Belize, reflected in the country profile of Belize developed in this study.
example, new construction activities declined by 8 percent, impacting on imports, since practically all supplies are imported.\(^{10}\)

Another feature of CARICOM’s economies is the small size of firms which are unable to have any impact on world trade. Limited market size imposes limits to the growth of firms. For instance, in the second largest Agri Industry in CARICOM, the poultry industry (with equivalent ex-factory sales as rice, i.e., US$360m, while sugar’s ex-factory sales are at US$450m, if all the production from the entire CARICOM was done in one plant, it would only represent the volumes processed by a large US plant. Tyson’s Foods of the USA, the global market leader in both the FTAA and the world, which operates in at least 5 FTAA states, is 50 times the size of the largest firm in CARICOM.\(^{11}\)

The lack of sophistication of the consumers and limited purchasing power dampen the urge to innovate or improve quality and variety of goods and services. The upper echelon of the society, with the taste and purchasing power for more sophisticated goods, purchase abroad. The size of market limits the number of firms that can be accommodated and the level of effective competition possible. For example, in CARICOM countries, banks are severely constrained by the small number of clients to be shared, and their lack of sophistication. In St. Lucia and SVG, clients are reluctant to use ATM machines and insist on going to the bank teller to transact business. Credit cards are hardly used. In smaller countries, these problems provide serious disincentives to the introduction of new products in the banking sector.

Most of the small economies of CARICOM are still dominated in the local sector by entrenched capital dating back to colonial times. The import and distribution sector remains largely in the hands of a few families which had historically controlled the local economy. In all of the territories studied except SVG, there is a concentration of wealth in the offspring of the plantocracy class, or in the case of the Bahamas, the Bay Street Boys. In St. Lucia, a member of the “old aristocracy,” controls the supermarket sector and is involved in shipping, with ties with companies in Puerto Rico, is involved in day boat charters, has shares in travel agency and now has a wholesale club.\(^{12}\)

Five of the top twenty importers in St. Lucia (i.e., 80 per cent of the goods imported are owned or managed by one family, the Deveaux family, which is also a remnant of the Old Plantocracy. They are involved in some 30 or 40 per cent of the economy, being agents for Texaco and owning Bryden and Partners and M+C. They are now moving into new areas - real estate and tourism. M+C is involved in hardware supplies, manufacturing, home appliances, wholesale, liquor, drugstore, tourism destination management and they negotiate with cruise ship management for the tour operators.\(^{13}\)

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11 Robert Best, Executive Director of the Caribbean Poultry Association. Interview.

12 Information gleaned during interviews in St. Lucia.

13 Information gleaned from interview with the Bahamas Real Estate Association.
Concentration of wealth is still significant in Jamaica, with a core of wealthy families controlling the large businesses. Grace Kennedy is an example. The wealth originates in the plantocracy wealth. Interlocking directorates is also a major issue in Jamaica.

In the Bahamas, the economy was historically controlled by the white families, with racial discrimination being similar to that in the Southern States of the US until the late 1960s. Blacks were disenfranchised, were deprived of opportunities for education and were marginalised in every respect. This ownership structure is still evident, with a few families owning the prime real estate and the key businesses in the economy today. For instance, the Pritchards and the D’Albenes control the wholesale food supply while Brent, Simonette and Rupert Roberts control the retail supermarkets: Supervalue, City Market and Abaco Markets, the only supermarket in Abaco. Trevor Kelly controls building supplies: CBC Commonwealth Building Supplies and Bahamian Lumber. According to the Survey of Businesses, 1999, there are only two businesses in New Providence that wholesale construction materials, hardware, plumbing and heating equipment and supplies. Kelly is also part owner of Marathon Mall. Shipping is dominated by the same families. Kelly and Bethell own the docks and Tropical Shipping, while the Simonette family has an interest in these enterprises and also owns Simonette Shipyard. There are 8-10 shipping companies, all owned by members of the white community. Tour operators, Play Tours and Majestic Tours, are owned by Bill Saunders.

In the Bahamas, the case of liquor is very interesting. The main wholesale and retail liquor distributors are Burns House Ltd, Butler/Sands Co. Ltd. and William Brewer Co. Ltd./Bristol Cellars Ltd. Bacardi and Company Ltd. bottle rum. There are 70 retail liquor stores in New Providence and 52 in Grand Bahama. In 2001, a Black Bahamian bought out the majority ownership (about 90 percent) of the liquor wholesale and retail industry. The Licensing Board objected, stating that no application was made to transfer the existing license. The case was taken to Court and the Licensing Board lost. Reports are that it is very difficult for new entrants to get into the bar or pub business. There are also complaints that liquor prices are excessive. However, one view, and a very valid one, given the culture of the Bahamas, is that the Church may have problems with lowering of liquor prices. Another view was that “the Whites controlled for ‘300’ years, so why can’t a Black man have a monopoly now.” The memory of racial discrimination experienced by Black Bahamians still informs perception of justice in the society.

Most firms in CARICOM countries are family owned, technologically backward, inefficient, inflexible and suffering from serious asymmetric information flows. Despite the impending changes anticipated by the coming on stream of the FTAA Agreement and further liberalisation in the WTO, most of these firms have adopted an ostrich head-in-the-sand attitude and feel that the government will protect them. This myopic view stems from the fact that firms are family run and unwilling to change, unwilling to share information or employ skilled outsiders to upgrade the quality of their goods or services.

Skilled human resource is seriously lacking, primarily because there is a continuous brain drain from the region to North America. In most of the CARICOM territories, the level
of skills in information technologies is low and bureaucratic systems are archaic. According to ECLAC 2002 (p.341):

The main constraints in developing high-value-added segments of the IT industry are workers skilled in specific areas, such as software and data conversion; the shortage of workers that are multi-skilled in information and communications technologies; the monopoly provision and resulting high cost of telecommunications services. The latter is particularly important because of the significant role that telecommunications infrastructure plays in facilitating economic development.

Indeed, the government of Jamaica expended considerable capital in loans from the Technology Fund to help establish three call centres in 2002. One of them, NetServ, collapsed in 2001 (six months after it started operations), after having received loans of about US$4 million from the government. The company has since been placed in receivership. (ibid.)

Serious transformation of the education system is needed to shape the work force to the needs of the changed global economy, but resources are lacking, given the shrinking revenue base of governments, and the reduced flow of concessional financing aid. This lack of skilled human resources is posing a serious problem as the region grapples with the imperatives of change, and the need to meet external obligations, such as the GATT 1994 Agreement, while negotiating new trading arrangements on three fronts - the WTO, the EU/ACP Cotonou negotiations, and the FTAA. In some countries, one or two individuals handle all trade matters, and there are no sectoral trade specialists to handle the demands of the negotiations.

Low saving levels in these economies are partly explained by low income and by capital flight to escape the insecurity of a volatile exchange rate, currency depreciation, and limited currency convertibility. Trinidad and Tobago, Jamaica, Guyana and Suriname have floating exchange rate systems while other CARICOM countries have fixed exchange rates. Foreign capital is encouraged through generous incentives such as tax holidays, customs duty exemption, provision of infrastructure, amongst others. The leading sector in the region, tourism, is dominated by foreign capital in most territories, with the exception of Jamaica and St. Vincent and the Grenadines. In the former, local entrepreneurs have emerged successfully in this sector, while in the latter, the sector is very undeveloped at this point.

With these two exceptions, in all the countries, the leading sector in the economy is foreign controlled. Foreign firms dominate mariculture, tourism and export agriculture in Belize, for instance. In St. Lucia, foreign owned hotels account for approximately two-thirds of the total number of hotel rooms, illustrating the fact that despite their seemingly small proportion of property ownership (12 out of 100 tourist accommodations), they dominate the tourism accommodation sector. In Trinidad and Tobago, foreign investors control the petroleum and petro-chemical sector, but the oil refinery is state-owned, having being bought by the government in 1986 at the depth of the oil depression, and in response to the threat of abandonment of the refinery by Texaco.
These countries are importers of technology, which in most cases is standardised or obsolete technology. Multinational Corporations do not easily part with cutting-edge technologies that are generating high profits. Technological innovation requires an enabling environment which is lacking in these small economies, that is, a sophisticated and large market, integrated production systems, a highly skilled work force and consumers with purchasing power and discriminating tastes.

Structural rigidities in these economies make adjustment cost very high. There simply is not the flexibility to switch from one production mode to another because of narrow human resource skills, information asymmetry markets, limited production processes, lack of technological know-how, and lack of capital. The social cost of adjustment cannot be absorbed by governments, because of their narrow and shrinking revenue base. Social fallout — poverty, crime and drugs — is very evident in these economies. In more developed economies, governments finance the adjustment process through welfare, supporting retooling and providing soft loans for investment in new areas. In CARICOM countries, the drug trade, using the region as a transhipment point, has provided the buffer, but brought with it human destruction, crime, violence and the destabilisation of the societies. Further, social disintegration is leading to political instability as pressure is being placed on governments to alleviate the socio-economic pain of the society.

The economic fragility of these countries is heightened because the CARICOM region is prone to frequent natural disasters, with yearly hurricanes and volcanic activity. Montserrat’s infrastructure and economy have been destroyed several times by volcanic activity, and most other territories have been devastated at one time or another by hurricanes. Belize was badly hit in October 2001 by Hurricane Iris, which damaged the citrus growing areas of Southern Belize. Production fell from 7 million boxes in 2000/2001 to 5.3 million boxes in 2001/2002. According to the Citrus Growers Association, it will take two (2) years to recover completely from that hurricane damage. The Banana industry was out of action between October 2001 and April 2002 as a result of hurricane damage. Export earnings dropped from US$295 million in 2000 to US$275 million in 2001.\(^\text{14}\) In St. Lucia and SVG, tropical storm Lili struck in September 2002 and damaged the banana crops, reducing exports sharply. Thirty to forty percent of plants in SVG and 40 - 80 percent of plants in St. Lucia were destroyed. Low export volumes resulted in crippling overhead costs and dead freight payments, reducing competitiveness and profits.\(^\text{16}\) Tourism infrastructure is repeatedly damaged in the island states each year, resulting in a slow down of tourist arrivals and thus, economic activity. Cost of repairs to damages caused to government infrastructure in the Bahamas by Hurricane Floyd in 1999 are as follows:


\(^{\text{15}}\) Central Bank of Belize statistics.

1. Bahamas Electricity
   - Restoration of Plant US$8m
   - Loss of Revenue US$4m

2. Bahamas Telecommunications Company
   - Replacement & Repair Cost to Plant & Distribution System US$36.5m

3. Water & Sewerage Corp.
   - US$2m

4. Public Works
   - Schools & Government Buildings
   - Docks and Sea Walls
   - Other Approx. $35m

Source: Insurance Supervisor Office of the Bahamas. Repairs to private homes, offices and hotels are additional to these costs.

Vulnerability to natural disasters impacts upon the business sector, with banks being reluctant to give loans to the agricultural sector, in particular, because of high risk, and they charge high interest rates to cover risk. Re-insurance rates are extremely high, leading to high insurance premiums. All this adds to final costs for business and renders their products uncompetitive.

The specialness of the small, vulnerable CARICOM states stems from the combination of factors that define their economies, and the lack of a wider supportive environment to buffer the fallout from economic and natural disaster exposure and fragility. When a state of the United States is devastated by a hurricane, the Federal Government steps in and rebuilds and ensures that citizens are given relief and support until normalcy returns. If there is an economic fallout with the closure of a major industry responsible for significant employment in a town, the government will offer support through welfare payments and retooling of the workforce. In CARICOM countries, no such support could be offered. Dependence on external aid to provide hurricane disaster relief is the norm. If a sector collapses, people simply have no recourse and descend into poverty. This is why special consideration must be given to protection of sectors that provide significant employment and contribute to food security.

A good example is Belize’s agricultural sector. Farmers produce sufficient fruit and vegetables (on a seasonal basis), corn, rice, beans, fresh beef, pork, poultry, eggs, finned fish, lobster, conch and fresh milk to feed the population. Belize is relatively self-sufficient in food. There is grave concern that if border barriers are lifted and Belizean farmers have to compete with subsidised agricultural products from the EU and North America, the sector would die. Some 50 percent of the population live in rural areas and gain their livelihood from farming. If imports of subsidised agricultural products were to cause the demise of this
sector, there would be massive unemployment, migration from rural to urban areas to seek (non-existent) employment, rise in poverty and crime, the creation of an urban ghetto, and, eventually starvation, because there would not be sufficient foreign currency available to import food (currently, most foreign exchange earnings come from the export of agricultural products) and former farmers would not have purchasing power. Opening up the agricultural sector to unfair competition from subsidised agricultural products would spell disaster for Belize.

It is the immediate and pervasive impact on the whole society and economy of a single blow - a decline in a commodity price or loss of a market, a hurricane, excessive competition from imports, and the inability to re-coup, leading to serious socio-economic problems - that is the defining feature of small, vulnerable economies. It is precisely for this reason that full reciprocity in trading arrangements spells disasters for these economies. The impact of exports from these economies on world trade or hemispheric trade is so miniscule that it is much less than 1 percent. For example, at the height of banana exports from SVG in 1987, the contribution of this country to total world exports in bananas was 0.47 percent. This increased to 0.8 percent in 1988. By the 1990s, the volume of exports would have declined. Yet, unemployment as a result of this decline was large: while unofficial figures are 20.18 percent, it is estimated to be around closer to 30 percent. The impact of imports on domestic producers could wipe out an industry or sector, and CARICOM economies are totally dependent on international trade for their survival and viability. The current contraction in these economies is leading not only to serious socio-economic problems, but also to political instability as governments grapple with the problems of providing basic needs.

There is a tendency in the literature and international debate to define economies like Canada, Australia, Israel and Singapore as small economies. Michal Gal (2001) defines a small economy “as an independent sovereign economy that can support only a small number of competitors in most of its industries when catering to demand.” She argues the case that Canada and Australia have pockets of small population dispersed over large geographic areas but concentrated in several urban areas, and that industries are characterised by concentrated market structures. Arguments such as this one dilutes the meaning of “small economies” with reference to CARICOM economies and some island economies in the Pacific Ocean. Table 2 below provides some statistics on these much larger economies that could be compared to Table 1. The difference in size of economies is stark, but also the difference in capacity and resilience in these economies. Israel has a high tech industry, and so do Canada and Australia, though at a lesser degree. Annual GDPs, population size, natural resources and export resilience so far outstrip CARICOM economies that the futility of comparison is self-evident. By any comparison, CARICOM economies are small (micro) vulnerable economies deserving of special and differential treatment for developmental purposes, including ensuring the sheer survival of these societies.

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Table 2
Profiles of Canada, Israel and Singapore

<table>
<thead>
<tr>
<th>Country</th>
<th>Canada</th>
<th>Israel</th>
<th>Singapore</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Area (sq. km.)</td>
<td>9,220,270</td>
<td>20,330</td>
<td>682.7</td>
</tr>
<tr>
<td>Population</td>
<td>31,902,268</td>
<td>6,029,529</td>
<td>4,452,732</td>
</tr>
<tr>
<td>Major Resources</td>
<td>Natural Mineral</td>
<td>Natural Mineral</td>
<td>Marine, Deepwater Ports</td>
</tr>
<tr>
<td>Leading Sectors</td>
<td>Transportation equipment, chemicals, processed and unprocessed mineral, food products; wood and paper products.</td>
<td>High-technology projects, wood and paper products, potash and phosphates</td>
<td>Electronics, chemicals, financial services, oil drilling equipment, petroleum refining.</td>
</tr>
<tr>
<td>Annual GDP US$</td>
<td>923 bil.</td>
<td>122 bil.</td>
<td>106.3 bil.</td>
</tr>
<tr>
<td>Imports as % of GDP</td>
<td>2.5</td>
<td>24.3</td>
<td>109.1</td>
</tr>
<tr>
<td>Trade Balance US$</td>
<td>+31.5 bil.</td>
<td>-2.8 bil.</td>
<td>+6 bil.</td>
</tr>
<tr>
<td>External Debt US$</td>
<td>1.9 bil.</td>
<td>42.8 bil.</td>
<td>8.3 bil.</td>
</tr>
<tr>
<td>Unemployment</td>
<td>7.6%</td>
<td>10.4%</td>
<td>4.7%</td>
</tr>
</tbody>
</table>


It has been demonstrated that CARICOM economies are fragile and vulnerable economically, socially, and politically, and this is as a direct result of small size and the nature of the integration of these economies into the world economy. They are essentially primary commodity producers operating in an increasingly depressed market, and subjected to externally fixed prices, or providers of services (tourism and off-shore banking) which are equally fragile and susceptible to shocks that lead to a downward spiral. Small population with limited earning capacity leads to limited demand, and consequently small markets, small firms and higher costs. Almost totally dependent on external trade to generate income and provide basic needs, these economies are buffeted by the slightest ripple in the world-economy. Limited natural and human resources mean that few options are available for diversification. Structural rigidities make diversification problematic. Exposure to natural disasters increases this vulnerability by repeated destruction of crops and infrastructure, including tourism infrastructure, causing serious contraction in the economies. Food security is at serious risk both because of natural disasters and the limited ability to earn foreign exchange to purchase food internationally. Fragile eco-systems are now threatened by rising sea levels. There is no question that these economies are in fact, a microcosm of all the problems faced by developing countries and isolated pockets in industrialised countries. Whereas other economies experience a few of these problems, CARICOM economies have a concentration of all the problems with little recourse to change because of their limited size and resources.

A small open economy may be defined as one in which there are limited human, financial and natural resources with small size of market limiting the number of business actors, scale production, and development options, and in which retention of capital is restricted by insertion into the global economy at a low level in the global product value chain, leading to severe economic vulnerability.
2.2 Extent of Openness of Economies: Government Erected Barriers

2.2.1 Barriers to Imports

The Bahamas, Jamaica and Trinidad and Tobago are very open economies, with few barriers to imports in the latter two, and no barriers in the former, except tariffs. All countries have applied the Common External Tariff (CET) within the terms of integration in the CARICOM (20 percent customs duty, with derogations and exceptions where deemed necessary).

Trinidad and Tobago and Jamaica removed barriers to trade under International Monetary Fund (IMF)/World Bank Structural Adjustment Programmes (SAPs)- the Import Negative List, Stamp Duty and Foreign Exchange Control regimes were dismantled in this period and anti-dumping and countervailing duties legislation are in place. Restrictions on the import of poultry and sugar have been retained in Trinidad through high tariffs. The Bahamas has no restriction on imports except for reason of public good (e.g., firearms), but the government relies heavily on customs duties for generating revenues.

The situation in Belize, St. Lucia and St. Vincent and the Grenadines is different. While all three countries have adopted the CET, they have retained other barriers to imports. In Belize, quantitative restrictions (including import licensing) and tariffs are designed to protect locally produced goods and services and to promote import substitution. Twenty-seven items are subjected to import licenses. Six items require an import license prior to importation from CARICOM. Import permits are issued for most agricultural products such as rice, fruits, vegetables and beans when the country does not have any local production or has a production shortfall. Many of these products, particularly fruits and vegetables, are produced seasonally. Other items subject to licenses compete directly with locally produced goods or can be substitute products. In general, the licenses are more strictly applied where the subsistence livelihood of producers is at risk and less strictly applied where the value added is relatively low. An example of the latter is toilet paper. Table 3 provides details of goods which require an import license. Capital goods are either imported free of duties or at very low rates - 5 percent. Low rates are also applied to imports of items such as baby food and milk, pharmaceutical products, stoves and refrigerators. Luxury goods, including liquor, attract high duties - up to 50 percent. While there are specification and labeling requirements in place for foodstuffs such as flour, pasta, biscuits, poultry, cigarettes, bottled water, vehicular tyres and household items such as bleach, enforcement is virtually non-existent. Table 4 and 5 provide details on import licensing requirements and goods subject to price controls.
Table 3. Goods Which Require an Import License Prior to Importation into Belize

<table>
<thead>
<tr>
<th>Item</th>
<th>Customs HS Code</th>
<th>Import Duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Rice</td>
<td>10.06</td>
<td>25%</td>
</tr>
<tr>
<td>2 Beans</td>
<td>0708, 0710, 0713, 1201</td>
<td>5% to 40%</td>
</tr>
<tr>
<td>3 Bleaching agents</td>
<td>3402.204, 3402.909</td>
<td>20% to 35%</td>
</tr>
<tr>
<td>4 Eggs</td>
<td>0407.001, 0407.002, 0407.003</td>
<td>Free to 40%</td>
</tr>
<tr>
<td>5 Flour</td>
<td>1101.001, 1102.2</td>
<td>5%</td>
</tr>
<tr>
<td>6 Fruits and vegetables</td>
<td>0701, 0702, 0704, 0705, 0706, 0707, 0709, 0710, 0714, 0801, 0803, 0804, 0807, 0810, 0811</td>
<td>$0.42/100 lb on potatoes; all else 5% to 40%</td>
</tr>
<tr>
<td>7 Furniture of wood, cane, osier, bamboo, rattan or similar material</td>
<td>9401, 9403, 9404, 9406</td>
<td>10% to 35%</td>
</tr>
<tr>
<td>8 Lumber and articles made of wood</td>
<td>44.03, 44.04, 44.07, 44.09, 4414, 4417, 4418, 44.20</td>
<td>5% to 25%</td>
</tr>
<tr>
<td>9 Meats and meat preparations</td>
<td>0201, 0202, 0203, 0206, 0210, 1601, 1602</td>
<td>20% to 45%</td>
</tr>
<tr>
<td>10 Molasses and sugar</td>
<td>17.01, 17.03</td>
<td>15% to 40%</td>
</tr>
<tr>
<td>11 Wearing apparel: T shirts for commercial purposes</td>
<td>6109</td>
<td>20%</td>
</tr>
<tr>
<td>12 Beer and beverages</td>
<td>22.02, 22.03</td>
<td>20%, $12/imperial gallon</td>
</tr>
<tr>
<td>13 Maize</td>
<td>10.05</td>
<td>40%</td>
</tr>
<tr>
<td>14 Fuels</td>
<td>2710</td>
<td>Free, $0.54/imp gal, $0.32/imp gal</td>
</tr>
<tr>
<td>15 Milk</td>
<td>4.01</td>
<td>Free</td>
</tr>
<tr>
<td>16 Gases</td>
<td>2711</td>
<td>Free</td>
</tr>
<tr>
<td>17 Poultry</td>
<td>1.05, 0207.1, 0207.2</td>
<td>Free to 40%</td>
</tr>
<tr>
<td>18 Citrus and beverages containing citrus products</td>
<td>08.05, 2007, 2008, 2009</td>
<td>15% to 40%</td>
</tr>
<tr>
<td>19 Jams, jellies and pepper sauce</td>
<td>2007, 2103</td>
<td>20% to 45%</td>
</tr>
<tr>
<td>20 Dry pasta products</td>
<td>1902.1</td>
<td>35%</td>
</tr>
<tr>
<td>21 Matches</td>
<td>36.05</td>
<td>35%</td>
</tr>
<tr>
<td>22 Animal feed</td>
<td>2309</td>
<td>15%</td>
</tr>
<tr>
<td>23 Toilet paper</td>
<td>4818.1</td>
<td>35%</td>
</tr>
<tr>
<td>24 Peanuts</td>
<td>1202.1, 1202.209</td>
<td>40%</td>
</tr>
<tr>
<td>25 Outboard motorboats of fiberglass</td>
<td>8903.99</td>
<td>20%</td>
</tr>
<tr>
<td>26 Brooms</td>
<td>9603.1, 9603.903</td>
<td>20%</td>
</tr>
<tr>
<td>27 Soaps</td>
<td>3401.112</td>
<td>20%</td>
</tr>
</tbody>
</table>
Table 4. Goods which Require an Import License Prior to Importation from CARICOM Countries to Belize

<table>
<thead>
<tr>
<th>Item</th>
<th>Customs HS Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Dry pasta products</td>
<td>1902.1</td>
</tr>
<tr>
<td>2 Aerated beverages</td>
<td>22.02</td>
</tr>
<tr>
<td>Chairs and other seats of wood</td>
<td>9401.3, 9401.4</td>
</tr>
<tr>
<td>4 Upholstered fabric – other furniture</td>
<td>9401.5, 9401.61, 9401.69,</td>
</tr>
<tr>
<td>of wood and upholstered fabric</td>
<td>9403.3, 9403.4, 9403.5,</td>
</tr>
<tr>
<td></td>
<td>9403.601, 9403.609,</td>
</tr>
<tr>
<td></td>
<td>9403.801, 9403.802,</td>
</tr>
<tr>
<td></td>
<td>9404.001, 9406.001</td>
</tr>
<tr>
<td>5 Wheat flour</td>
<td>1101.001, 1101.009</td>
</tr>
<tr>
<td>6 Beer</td>
<td>22.03</td>
</tr>
</tbody>
</table>

Table 5. Goods that are Subject to Price Controls in Belize

<table>
<thead>
<tr>
<th>Lard</th>
<th>Kerosene</th>
</tr>
</thead>
<tbody>
<tr>
<td>Margarine</td>
<td>Gasoline (Regular, Premium)</td>
</tr>
<tr>
<td>Milk</td>
<td>Diesel</td>
</tr>
<tr>
<td>Sardine, Mackarel, Herring</td>
<td>Butane</td>
</tr>
<tr>
<td>Cooking Oil</td>
<td>Fish</td>
</tr>
<tr>
<td>Coffee</td>
<td>Sugar</td>
</tr>
<tr>
<td>Red Kidney Beans</td>
<td>Break</td>
</tr>
<tr>
<td>Medical preparations and Prescription Drugs</td>
<td>Beer</td>
</tr>
<tr>
<td>Household Flour</td>
<td>Rice</td>
</tr>
</tbody>
</table>

Under Article 56 of the CARICOM treaty, St. Lucia, SVG (and other OECS countries) and Belize apply quantitative restrictions on the importation of certain products from other CARICOM countries. St. Lucia and SVG apply, in addition to the CET, a customs service charge of 4 percent. In addition, an environmental levy of 1.5 percent on the c.i.f. value of all imports is applied by St. Lucia and a consumption tax by St. Vincent. St. Lucia pork and poultry imports are subjected to quantitative restrictions, while Sanitary and Phyto-Sanitary (SPS) requirements apply to import of animal and plant products as well as pesticides. In SVG, agricultural goods and manufactured products from extra-CARICOM countries are subjected to licensing requirements. Permits are required for importation of live animals, plants and seeds from commercial houses, pesticide, controlled drugs, arms, ammunition and explosives. SPS measures are applied to live plants, seeds and live animals. Both countries have antiquated anti-dumping legislation (1964) which needs updating.

St. Vincent and the Grenadines provides tariff exemptions for the Bananas Growers Association, the Canouan Resorts Development Ltd. and Ottley Hall Development Enclave Industries. Jet-skis and water bikes are prohibited, for environmental protection reasons, and some agricultural and manufactured goods from extra-CARICOM countries are subject to licensing requirements.

Nineteen items are subject to price controls in Belize and SVG. Price controls are essentially on ‘basic needs’ commodities. The major objective is to ensure that consumers
pay an affordable and fair price for the product. At any rate, all price controls are set at levels that recuperate costs, so in effect, the control is more on profit levels. Sugar is a special case where the local control price was raised in 2001 to assist sugarcane farmers.

Despite these restrictions, these economies are very open. For instance, in St. Lucia, the ratio of foreign trade to GDP of about 75 percent, while in SVG, the ratio is 58 percent, and for Belize, more than 90 percent of GDP.

2.2.2. Barriers to Foreign Direct Investment

General Investment Policy

Foreign Direct Investment (FDI) is generally welcomed in all CARICOM countries, with some restrictions in particular sectors in some of the countries. The region, in fact, is heavily reliant on FDI to promote economic growth and employment generation because domestic savings are insufficient to meet the needs. Development strategies are based largely on tourism, and the mining and energy sectors, in which the size of infrastructure and operational costs are too vast for domestic investors.

As such, larger hotels in the tourism sector and the mining and petroleum and petrochemical sectors are dominated by foreigners. Jamaica is an exception, where locals have managed to carve out a large slice of the tourist sector and also invest intra-regionally. The sector, while open to foreign investment, retains barriers to entry since smaller guest houses and downstream services are generally reserved for locals.

All CARICOM countries protect property rights of foreign investors including intellectual property rights.

The Bahamas depends heavily on FDI for generating economic activity. The major sector of the economy, tourism, is dominated by foreign investors, as is its second largest sector, financial services. Approximately 70 percent of GDP comes from foreign investment activities, and there are little or no barriers to FDI in many sectors (details below).

In an attempt to diversify the economic base, the Belizean government has passed several legislations to encourage business expansion and domestic production. The driving need for foreign currency for investment and consumption goods meant that a bias towards export oriented industries was very evident in those legislations promoting inward investment, particularly foreign direct investment. Such legislation includes the Fiscal Incentives Act, the Commercial Free Zone Act, the Export Processing Zone Act and the Offshore Banking Act.

In the 1970s, the climate for foreign investment in Jamaica was very restrictive due to concerns about the significant flows of factor incomes going abroad. Since the 1980 and 1990s, however, a more liberal foreign investment regime has emerged in Jamaica. Laws
that inhibited foreign investment, such as the *Foreign Exchange Control Act*, and other prohibited arrangements have been eliminated.

According to the Government,\textsuperscript{18} St. Lucia recognizes that a country’s strength and its capacity to generate internationally competitive rates of return on investments are crucial determinants of its ability to attract foreign investment. In the context of a small developing country, new investments are critical to the improvement of domestic technologies; the modernization of production, marketing, and distribution processes; and the development of human capital. Government FDI policy is therefore aimed at creating a most attractive investment climate. The bureaucratic and structural processes, however, do not always conduce to achieving this stated objective, but the government has repeatedly expressed a commitment to “streamline the foreign investment facilitation process.”\textsuperscript{19} One proposed initiative to achieve this objective is the transformation of the National Development Corporation into a “one-stop shop” for investors with the enactment of legislation for the restructuring of the Corporation. While this proposal was first announced in December 2001,\textsuperscript{20} it has not to date been implemented.

The St. Vincent and the Grenadines Government encourages foreign investment inflows, particularly foreign investment that fosters technological development and does not conflict or compete with national goals, has a high level of value added, earns significant foreign exchange, uses indigenous inputs, and has significant employment potential. Investment in most sectors is open to non-nationals, but some areas are limited exclusively to investment by nationals. The Government has a list of most-favoured areas for investment by non-nationals, including some manufacturing activities, agri-industry, and tourism.

Since liberalization, Trinidad and Tobago has adjusted its treatment of foreign investment in non-energy sectors considerably. The existing policy environment is more or less a consolidation of past attempts at improving the country’s investment climate. Within this new framework, foreign direct investment (FDI) has been identified as having a potentially crucial role to play in the mobilization of private foreign capital and engendering economic growth. Consequently, steps were taken to remove existing disincentives to FDI, to the extent that national treatment applies to most types of foreign investment except in certain instances. Furthermore, a range of incentives now applies for both foreign and local investment, which include tax concessions, duty-free access for imports of capital goods, amongst others. Some of the main changes with respect to treatment of foreign investment include:

1) By 1990, the Alien (Land Holding) Act was repealed and replaced by the Foreign Investment Act 1990, which though also in the process of being revised, was designed to attract foreign investors. At present, there is generally

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\textsuperscript{18} WTO Trade Review response, by the Government of St. Lucia, WTO/ODCS. T/TPR/G, Section


\textsuperscript{20} *Ibid.*
no requirement for approval or licensing for foreign investors except in the following cases:

- a license is generally required by both local or foreign investors for drilling or mining activities or certain commercial activities;
- to hold shares in a public company in excess of 30 per cent or more of the total shareholdings held by foreign investors;
- to hold an interest in land larger than five acres for trade or business purposes; and
- to hold an interest in land larger than one acre for residential purposes (Trinidad and Tobago Gazette (1990; 84-93)).

2) The government also removed the majority of trade-related investment measures that had been introduced during the previous decades. As such, there is no local content requirement, foreign exchange or trade balancing requirement, foreign exchange restrictions, local employment requirement or other such constraints on the investor.

3) While work permits are required for foreign workers, a foreigner can work for 30 days without a permit, provided he/she does not re-enter the country within a year.

4) Finally, firms are allowed to locate in export processing zones if their production is for export only, and are provided with very generous perks and incentives, such as tax holidays and other preferential treatment.

*The Climate for Investment*

A “One Stop Shop,” The Bahamas Investment Authority was established to deal more efficiently with prospective investors’ needs. The government undertakes, in its articulated policy, to provide special training and retraining for Bahamians workers to ensure the continuing availability of a highly skilled labour force. Work permits are required for non-Bahamian employees and the Investor must have a local representative (an attorney, accountant or agent). International investors are encouraged to establish joint ventures with Bahamian partners. The equity of the overseas investor may not be borrowed from the

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21 This change in law led to a massive inflow of Germans into Tobago, buying up prime land at give away prices (given their purchasing power). Serious economic and social problems have resulted. The sharp increase in the price of land means that the average Tobagonian can no longer buy land, and changes in demography have had racial implications, and put pressure on the government for provision of services). Further, the Germans are accused of operating guest houses illegally, under the pretext of bringing friends from Germany, thereby competing with local guest houses. This illustrates how irresponsible opening of the economy could have very negative effects.
Bahamas Development Bank (BDB) (set up to assist Bahamians in establishing or expanding business) or from the domestic capital market. An established joint-venture is not debarred from accessing BDB funds.

The Bahamian dollar is pegged to the US dollar at equivalent value. There are no restrictions on current account transactions (purchase of goods and services), but payments abroad must be done through Authorized Dealers, who have been delegated authority by the Central Bank to approve allocations of foreign exchange for certain payments. There are no restrictions on free repatriation of profits, and non-residents who do business in the Bahamas enjoy freedom from exchange controls.

Permission is required for outward direct investment because this impacts on the balance of payments. Inward investments are welcomed, but must be subjected to approvals by both the National Economic Council and the Central Bank. There is no limit on the total value of foreign investment allowed, though there are restrictions on the sectors where they can be invested. Wholly owned non-resident companies are not allowed to raise fixed capital in Bahamian dollars although approval may be granted to obtain working capital in local currency.

A firm which seeks to offer financial services to a resident of the Bahamas must be licensed and regulated by the appropriate Bahamian regulatory body, and this usually requires as a minimum, establishing a commercial presence. Non-Bahamian employees are required to have a work permit.

General restrictions that apply to all service sectors are the following:

- work permit required for presence of natural persons
- exchange restrictions as outlined above
- restrictions on entry into businesses reserved for Bahamian ownership.

In Belize, foreign investors may fully own a business. While non-residents can invest in most sectors of the economy, certain activities require special permits and licenses, which may not be granted to non-residents. These include merchandising, fishing (within the barrier reef), sugarcane cultivation, internal transportation, restaurants and bars, souvenir manufacturing for the local market, bee-keeping, cruise ship tour guide operations, accounting, legal services, real estate and insurance, entertainment and beauty salons.

Today Jamaica has no legal impediment to direct foreign investment and applies the principle of national treatment to foreign investors. There are standard and non-discriminatory mechanisms for screening investors, although the local private sector believes

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22 There are restrictions in the area of public procurement. See the Handbook of Public Sector Procurement Procedures which prescribes the procedural framework for government procurement (www.mof.gov.jm). Other restrictions include investment projects that affect national security, those that include the use of banned imports, and projects harmful to the environment.
that the system favours foreign investors.\textsuperscript{23} The main criteria are the creditworthiness of the company and environmental impact.\textsuperscript{24} Although investment proposals are assessed on their merits, investments are preferred in areas which may increase productive output, use domestic raw materials, earn or save foreign exchange, generate employment, or introduce new technology.\textsuperscript{25}

There are no specific regulations regarding foreign exchange, or the importation of capital goods and technology. There are no restrictions for obtaining loans in the domestic financial system, in local or foreign currency, by foreign investors. Foreign investment profits and dividends, however, are subject to taxes (except in the free zones). Jamaica has signed and ratified double taxation agreements with Canada, CARICOM, China, Denmark, Germany, Israel, Norway, Sweden, Switzerland, the United Kingdom and the United States. These treaties provide for income tax rates for non-residents lower than 25 per cent on certain types of income.\textsuperscript{26}

Like in other CARICOM countries, the St. Lucia government invites FDI, particularly in the tourism sector. The stated government policy\textsuperscript{27} of St. Lucia is that despite the reservation of some areas for investment only by nationals, licenses could nevertheless be issued to non-national companies or persons in cases where local investment has not been sufficiently forthcoming or where the appropriate technology is not available locally.

There seems to be a gradual easing of the restrictions as St. Lucia attempts to conform to the dictates of international trade and economic liberalisation. Indeed, in practice several of these areas of activity have been operated by non-nationals, particularly when the investment and employment creation have been significant.

In St. Vincent and the Grenadines in areas not reserved for nationals, foreign investors are generally granted national treatment, except for the requirements to obtain work and residence permits, and an alien landholding licence (except for other OECS nationals). Work permits are granted for an initial period of one year, renewable thereafter. Foreign investors may hold up to 100 percent of an investment; however, joint ventures are encouraged through double taxation treaties, unlimited repatriation of profits, and business and marketing intelligence services. Under the Alien Landholding Act, foreigners must obtain a licence to purchase land. To purchase one acre or less, an application containing an approved development plan and an execution plan within 18 months is required. Purchases by


\textsuperscript{24}See Lincoln Price (2002) \textit{Economic Profile & Investment Framework (Draft)}, JAMPRO.


\textsuperscript{26}The non-resident tax-payer must obtain a certificate from the Commissioner of Income Tax. Some of the treaties allow for reduced withholding tax rates.

\textsuperscript{27}Ministry of Commerce’s “A simplified Guide to establishing a Business in Saint Lucia”
foreigners of more than one acre of land require the presentation of a development plan for the whole area.

There are no restrictions on the repatriation of dividends for totally foreign owned firms; in the case of a mixed company, profits may be repatriated to the extent of the foreign participation in the company. Unless granted an exemption under the Fiscal Incentives Act, foreign investment profits receive national treatment and are subject to a 40 percent tax rate, with the exception of manufacturing enterprises, which are subject to reduced rates: 35 percent for income from sales to the domestic and OECS markets; 30 percent for income to exports to Barbados, Guyana, Jamaica, and Trinidad and Tobago; and 25 percent for income from exports to other markets.

**Incentives to FDI**

In the Bahamas, investment incentives are provided in the form of exemption from payment of customs duties on building materials, equipment and approved raw materials, business licensing fees and real property taxes for periods up to 20 years. Several Acts have been passed over the last few decades providing incentives to the establishment of hotels, industries, export manufacturing, agricultural manufacturing, and the manufacture of spirits and beer.28

The most important tool promoting foreign and local investment in Belize is the Fiscal Incentive Act. This provides for the granting of tax holidays and customs duties exemptions for up to twenty-five years. The type and duration of the incentives offered depend on the nature of the investment and the level of benefits accruing to the country. For example, export oriented industries engaged in agriculture, agro-industry, food-processing, mariculture or manufacturing whose operation is highly labour intensive may enjoy benefits for up to twenty-five years.

The Act includes a special proviso that no duty exemption shall be granted for any raw materials or articles which are available in Belize or any Member States (referring to CARICOM) provided that they are of comparable quality and price, except in the case of an export enterprise exporting to non-Caricom countries. Furthermore, no fiscal incentive order is to be granted for an enterprise whose products are destined for the domestic or Caricom market unless the products meet the rule of origin as specified in the Caricom trade agreement.

The Government St. Vincent and the Grenadines offers a wide range of incentives to potential investors in manufacturing, services, and hotel development. These incentives

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- The Hotels Encouragement Act
- The Industries Encouragement Act
- The Export Manufacturing Industries Encouragement Act
- The Bahamas Free Trade Zone Act
- The Agricultural Manufacturer’s Act
- The Hawksbill Creek Agreement Act (establishing Freeport)
- The Spirits and Beer Manufacturing Act
include a tax holiday period on taxes on profits and on import duties, and the possibility to carry forwards net losses and set them off against taxable profits for five years after the tax holiday period (contained in the Fiscal Incentives Act No. 5 of 1982, as amended by Act No. 20 of 1987 and Act No. 16 of 1991, and the Hotel Act No. 16 of 1988). Other incentives include the provision of factory space on a rental basis and of factory shells constructed by the St. Vincent and the Grenadines Development Corporation.

In Trinidad and Tobago, the range of incentives offered to investors is quite broad and includes the following:

- Concessions from import duty on raw materials, machinery, and equipment for approved industrial projects;
- Exemption from corporation tax on profits, and from tax on dividends (under the Fiscal Incentives Act and Hotel Development Act);
- Loss write-off provisions;
- Training subsidies for developing new skills;
- Provision of industrial sites and developed industrial accommodation;
- Export allowances, promotion and assistance;
- Export credit insurance;
- Double taxation relief;
- Exemption from Value Added Tax on inputs for companies exporting 80 percent of production;
- Free Zones under Act 19 of 1988; and

In some circumstances incentives are available only to locally incorporated companies or locally owned companies. Incentives also tend to be sector specific in that they are also targeted to certain sectors of the economy or areas of activity such as Construction, Agriculture, Tourism and Export Activities with the establishment of Free Zones.
Areas Reserves for Local Investment

There are several areas of the economies reserved for local investment, with a high level of similarity amongst the four smaller economies, that is, Belize, The Bahamas, St. Lucia and St. Vincent and the Grenadines. While Jamaica’s and Trinidad and Tobago’s openness could be attributed to a more aggressive pursuit of liberalization, this policy should be linked to the IMF/WB Structural Adjustment programmes of the 1980s in the case of Jamaica and the 1990s in Trinidad and Tobago that required removal of impediments to FDI. Furthermore, both these countries embarked on a reckless drive to make themselves “NAFTA ready” in the early 1990s, in the hope of being next on the list, and encouraged by the US to sign Intellectual Property and Investment Bi-lateral Agreements that opened the economies to investment and provided IP protection of greater strength and in advance of WTO obligations.

The four smaller economies all reserve the following areas for locals: wholesale and retail operations, real estate and domestic property management agencies, domestic newspaper and magazine publication, domestic advertising and public relations firms, night clubs and restaurants except specialty gourmet and ethnic restaurants and restaurants operating in hotels, resort complexes or tourist attractions, construction companies, except where international expertise is required, services which can be supplied by locals (auto and appliance service operators, cruise ship tour guide operators, entertainment services, landscaping, secretarial, clerical, hairdressing, laundry, internal car rental, vehicle repair etc.). Operation of small guest houses is restricted to locals, as well as sea sports and other tourist services. Ground transport is generally reserved for local investors, both public transport and tourist transport. There are some differences. The Bahamas for instance, reserves security services for Bahamians while this is completely open in Trinidad and Tobago. Belize has some specific areas reserved for locals, such as sugar cane cultivation, souvenir manufacture for the local market, bee keeping, accounting, while St. Lucia reserves certain production activities exclusively for the local market for locals (agricultural products, handicraft, furniture, soft drinks, bread and pasta).

Effects of FDI Policy on Economy

Despite this, these markets are dominated by foreign investors, because they control the leading sectors of the economies. As stated before, approximately 70 percent of GDP in the Bahamas comes from foreign investment activities. In St. Lucia, FDI inflows account for about one-third of financial inflows, and is estimated to have comprised 4.9 percent of GDP in 2001. The mainstay of St. Lucia’s economy was the banana industry which comprised of mainly peasant farmers. Restructuring and expansion of tourism are now taking place.

In Belize foreign direct investment ranged between US$12mn to US$20mn annually from 1990 to 1998. In 1999 and 2001, investment surged because of the privatization to foreign companies of the electricity and water companies, respectively (Table 6). The sectors attracting the larger share of foreign investments since 1990 have been the agricultural (mainly citrus, banana and papaya), farmed shrimp and tourism sectors. Table 7 below gives a breakdown of the major areas of investment.
Table 6. Foreign Direct Investment in Belize: Quantum

<table>
<thead>
<tr>
<th>Year</th>
<th>Foreign Direct Investment (US$mn)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>$19</td>
</tr>
<tr>
<td>1991</td>
<td>$15</td>
</tr>
<tr>
<td>1992</td>
<td>$18</td>
</tr>
<tr>
<td>1993</td>
<td>$14</td>
</tr>
<tr>
<td>1994</td>
<td>$12</td>
</tr>
<tr>
<td>1995</td>
<td>$21</td>
</tr>
<tr>
<td>1996</td>
<td>$17</td>
</tr>
<tr>
<td>1997</td>
<td>$12</td>
</tr>
<tr>
<td>1998</td>
<td>$19</td>
</tr>
<tr>
<td>1999</td>
<td>$50</td>
</tr>
<tr>
<td>2000</td>
<td>$13</td>
</tr>
<tr>
<td>2001</td>
<td>$45</td>
</tr>
</tbody>
</table>

Table 7. Major Companies with Majority Foreign Shareholders in Belize November 2002

<table>
<thead>
<tr>
<th>Companies</th>
<th>Market Share</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Utilities</strong></td>
<td></td>
</tr>
<tr>
<td>Belize Electricity Limited</td>
<td>Sole provider of electricity</td>
</tr>
<tr>
<td>Belize Water Services Limited</td>
<td>Sole provider of water/sewerage services</td>
</tr>
<tr>
<td>Belize Telecommunications Limited*</td>
<td>Exclusively licensed provider of all telecommunication services up to December 2002</td>
</tr>
<tr>
<td><strong>Financial Sector</strong></td>
<td></td>
</tr>
<tr>
<td>Bank of Nova Scotia</td>
<td>18.1% of national deposits</td>
</tr>
<tr>
<td>First Caribbean International Bank</td>
<td>13.2% of national deposits</td>
</tr>
<tr>
<td>Atlantic Bank</td>
<td>15.6% of national deposits</td>
</tr>
<tr>
<td>Belize Bank*</td>
<td>46.2% of national deposits</td>
</tr>
<tr>
<td><strong>Agricultural Production</strong></td>
<td></td>
</tr>
<tr>
<td>Fruta Bomba</td>
<td>Produces more than 75% of export papayas</td>
</tr>
<tr>
<td>Belize Fruit Packers</td>
<td>Packing house of papayas</td>
</tr>
<tr>
<td>Nova Shrimp Farm</td>
<td>Operates 43% of shrimp ponds</td>
</tr>
<tr>
<td>Aquamar Shrimp Farm</td>
<td>Operates 16% of shrimp ponds</td>
</tr>
<tr>
<td>Paradise Shrimp Farm</td>
<td>Operates 12% of shrimp ponds</td>
</tr>
<tr>
<td>Conglomerate of 8 banana farms</td>
<td>Produces 27.9% of export banana</td>
</tr>
<tr>
<td>Arnold Farms Limited</td>
<td>Produces 11.2% of export banana</td>
</tr>
<tr>
<td><strong>Tourism</strong></td>
<td></td>
</tr>
<tr>
<td>Princess Hotel</td>
<td></td>
</tr>
<tr>
<td>Radisson Hotel*</td>
<td></td>
</tr>
<tr>
<td>Journey’s End</td>
<td></td>
</tr>
<tr>
<td><strong>Garments</strong></td>
<td>Largest garment exporter</td>
</tr>
<tr>
<td>Williamson Industries/Dickie subsidiary</td>
<td></td>
</tr>
<tr>
<td><strong>International Transportation</strong></td>
<td></td>
</tr>
<tr>
<td>American Airlines</td>
<td>Not available</td>
</tr>
<tr>
<td>Continental Airlines</td>
<td>Not available</td>
</tr>
<tr>
<td><strong>Fuel Importers/distributors</strong></td>
<td></td>
</tr>
<tr>
<td>ESSO</td>
<td>Imports virtually all domestic fuel</td>
</tr>
<tr>
<td>Shell and Texaco</td>
<td>Buys from ESSO for local distribution</td>
</tr>
<tr>
<td><strong>Other</strong></td>
<td></td>
</tr>
<tr>
<td>Courts Limited</td>
<td>One of the largest department stores</td>
</tr>
<tr>
<td>Belize Mills Limited</td>
<td>Sole producer of milled flour</td>
</tr>
</tbody>
</table>

*Carlisle Holdings is an IBC with the majority owner being Mr. Ashcroft, a British subject with Belizean citizenship. He has several international investments, some of which are in Belize. (CH is major shareholder in these companies).
An examination of the economy of Trinidad and Tobago reveals a very high level of penetration of foreign investors in many sectors. After falling to US$295 million in 1995, there has been a steady increase in FDI in the five years to 2000. FDI flows into the country were estimated at US$680 million in 2000. Prior to this recent increase, FDI spiked in 1993 and 1994 at US$373 million and US$521 million respectively from US$171 million in 1992 and US$20 million in 1986. This apparent increase occurred primarily as a result of privatization of the large petrochemical industries, which took place in those years. While FDI continues to be concentrated in the energy sector, namely, in the extraction and refinement of oil and gas (Figure 1), foreign investment flows also increased, albeit at a much slower pace, in other non-energy areas of activity, such as manufacturing, construction, tourism and other services during the second half of the 1990s.

There are approximately 152 foreign firms operating in Trinidad and Tobago, 42 in the energy sector and the rest in the non-energy sector. Table 8 below gives details on the extent of FDI by sector and industry in the energy and non-energy sectors. Within the non-energy sector, foreign firms have successfully permeated sectors such as services, manufacturing, distribution and retail sales. There are approximately 35 US firms, 18 from the UK and about 23 from Canada. Other countries with investment interests in the non-energy sector include India, Australia, Taiwan, Japan, Italy, France, Finland, Switzerland, Mexico and
other Caribbean territories. In many cases, these industries dominate the product markets in which they operate. For instance, FDI dominates the margarine and butter markets, liquid milks, chocolates, tea and coffee drinks, toothpastes, pharmaceuticals, detergents and fabric softeners among others. As Table 8 indicates, there appears to be a particularly high degree of penetration by foreign firms (approximately 60 firms) in areas such as services including transport, financial services, courier services, professional services, utilities, pest control, security and fast food.

Table 8 illustrates the deep sectoral penetration of FDI in Trinidad and Tobago.

### TABLE 8. EXTENT OF FDI BY SECTOR AND INDUSTRY IN TRINIDAD AND TOBAGO
**NON-ENERGY SECTOR AS AT NOVEMBER 2002**

<table>
<thead>
<tr>
<th>SERVICES</th>
<th>COUNTRIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transport</td>
<td>United States-2</td>
</tr>
<tr>
<td>Marine</td>
<td>United States-3; Canada-1; Antigua-1</td>
</tr>
<tr>
<td>Air</td>
<td>United Kingdom-1</td>
</tr>
<tr>
<td>Helicopter</td>
<td></td>
</tr>
<tr>
<td>Financial Services</td>
<td>United States-1; Canada-1; Venezuela-1</td>
</tr>
<tr>
<td>Banking</td>
<td></td>
</tr>
<tr>
<td>Insurance</td>
<td>United States-1; India-1</td>
</tr>
<tr>
<td>General</td>
<td>Barbados-2; Guyana-2; Bermuda-1</td>
</tr>
<tr>
<td>Life</td>
<td></td>
</tr>
<tr>
<td>Actuarial</td>
<td>United Kingdom-1</td>
</tr>
<tr>
<td>Money transfer</td>
<td>United States-1</td>
</tr>
<tr>
<td>Courier</td>
<td>United States-4</td>
</tr>
<tr>
<td>Professional Services</td>
<td>United States-1</td>
</tr>
<tr>
<td>Advertising</td>
<td>United States-2; Japan-1; United Kingdom-2;</td>
</tr>
<tr>
<td>Information Systems Services</td>
<td>Canada-2; Dominica-1</td>
</tr>
<tr>
<td>Accounting</td>
<td>United States-1; United Kingdom-1</td>
</tr>
<tr>
<td>Construction</td>
<td>Canada-1</td>
</tr>
<tr>
<td>Instrumentation (Elect.)</td>
<td></td>
</tr>
<tr>
<td>Management Consultancy</td>
<td></td>
</tr>
<tr>
<td>Trade Management</td>
<td>Canada-1</td>
</tr>
<tr>
<td>Project Management</td>
<td>Canada-1</td>
</tr>
<tr>
<td>Engineering</td>
<td>Canada-3</td>
</tr>
<tr>
<td>Environmental Management</td>
<td>United States-1; Canada-2</td>
</tr>
<tr>
<td>Utilities</td>
<td>United States-2; United Kingdom-1; Canada-1;</td>
</tr>
<tr>
<td>Water Resource Management</td>
<td>Venezuela-1</td>
</tr>
<tr>
<td>Telecom</td>
<td>United States-1; Canada-1</td>
</tr>
<tr>
<td>Elect. Power generation &amp; Transmission</td>
<td></td>
</tr>
<tr>
<td>Health Care</td>
<td>United States-1; Canada-1</td>
</tr>
<tr>
<td>Pest Control</td>
<td>United Kingdom-1</td>
</tr>
<tr>
<td>Security</td>
<td>United Kingdom-1</td>
</tr>
<tr>
<td>Fast Foods</td>
<td>United States-3</td>
</tr>
<tr>
<td>Gaming &amp; Lottery</td>
<td>United States-1</td>
</tr>
<tr>
<td>Tourism Hotel</td>
<td>United States-1</td>
</tr>
</tbody>
</table>
## TABLE 8
EXTENT OF FDI BY SECTOR AND INDUSTRY IN TRINIDAD AND TOBAGO
NON-ENERGY SECTOR AS AT NOVEMBER 2002 – Cont’d

<table>
<thead>
<tr>
<th>MANUFACTURING</th>
<th>COUNTRIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Packaging</td>
<td>United States-1; Canada-2; France-1</td>
</tr>
<tr>
<td>Consumer Products</td>
<td>United States-1; Jamaica-1</td>
</tr>
<tr>
<td>Pharmaceutical</td>
<td>US-1</td>
</tr>
<tr>
<td>Steel</td>
<td>India-1</td>
</tr>
<tr>
<td>Automobile</td>
<td>Japan-1</td>
</tr>
<tr>
<td>Clothing Accessories</td>
<td>Japan-1; Canada-2</td>
</tr>
<tr>
<td>Food Processing: General</td>
<td>France-1</td>
</tr>
<tr>
<td>Fish and by-products</td>
<td>Taiwan-1; United Kingdom-1; Barbados-1</td>
</tr>
<tr>
<td>Meats</td>
<td>Canada-1; Barbados-1</td>
</tr>
<tr>
<td>Beans and Peas</td>
<td>Barbados-1; Italy-1</td>
</tr>
<tr>
<td>Dairy</td>
<td>Switzerland-1</td>
</tr>
<tr>
<td>Beverage</td>
<td>United States-1; United Kingdom-2</td>
</tr>
<tr>
<td>Cigarette</td>
<td>United Kingdom-1</td>
</tr>
<tr>
<td>Paper and printing</td>
<td>United Kingdom-1; France-1; Venezuela-1</td>
</tr>
<tr>
<td>Construction materials</td>
<td>United States-1; India-1; Canada-2; France-1; Venezuela-2</td>
</tr>
<tr>
<td>Table &amp; Dinner-ware</td>
<td>Guyana-1</td>
</tr>
<tr>
<td>Artificial teeth</td>
<td>United States-1</td>
</tr>
<tr>
<td>Lumbering</td>
<td>Finland-1</td>
</tr>
<tr>
<td>Metal Works</td>
<td>Venezuela-1</td>
</tr>
</tbody>
</table>

### DISTRIBUTION

| Pharmaceuticals              | United States-2                               |
| Books                       | United Kingdom-1                               |
| Consumer Goods              | United States-1; United Kingdom-1              |

### RETAIL

| Furniture                   | United Kingdom-1                               |

### 2.3 Role of the State in the Productive Sector

CARICOM governments have gone a long way towards withdrawing from the productive sector, in many cases driven by the Structural Adjustment Programmes of the International Financial Institutions, as a way of finding money to pay external debt servicing requirements. Privatization in these small economies in the vast majority of cases means transference of ownership to foreign investors, since the amount of capital needed exceeds the capacity of local investors (which is why government invested in the first place). The process of privatization has been contentious in that some industries were privatised despite their being profitable and important foreign exchange earners or because of the socio-economic implications of the downsizing which was sure to follow divestment. An example is the divestment of the Urea and Methanol plants in Trinidad and Tobago, which were highly efficient and profitable, but were divested to gain money that could be used to meet external debt servicing.
The Bahamian Government’s involvement in the economy is very limited, compared to most other countries. Most Government Corporations are in the essential services sector, and others have developmental objectives. Indeed, the only one where there is a justification for calling for privatization is the telecommunications corporation, and the privatization and liberalisation process of that sector has already been started at the Bahamas Telecommunications Corporation (BATELCO).

State-owned companies providing essential public services are the Airport Authority; Water and Sewerage Corporation; Public Utilities Commission; Public Hospitals Authority; Bahamas Electricity Corporation; Central Bank of the Bahamas; Securities Commission of the Bahamas. The Bahamas Maritime Authority oversees the registration of ships and enhances services to flag registrants. The Bahamas Telecommunications Corporation is now facing competition as the sector is liberalised. A national airline is owned by the government, and there are many complaints of inefficiency and loss of revenue. However, the ownership is defended because of the need to supply service to the family islands, which are remote and uneconomic to service, given lack of economies of scale. It also retains ownership of a media house, the Broadcasting Corporation of the Bahamas.

In Belize, the government has progressively privatized its ownership of several key enterprises. In the early 1980’s, the government sold off its banana plantations to private farmers. This was followed in 1987/88 with the sale of 45 percent of its shares in the telecommunications company. In 1992, further divestiture left the Government with 2.41 percent of shares, although the Belize Social Security Board held approximately 27 percent of shares. In 1999, the last remaining shares held by Central Government were sold.

The government has also privatized the electricity company. The first offering, comprising 49 percent of its shares, was made in 1992. In 1999, it sold off the remaining 51 percent. Currently, a Canadian company has the majority shareholdings. In 2001, the water and sewerage company was fully privatized with the majority shareholder being a foreign investment company. In late 2002, government privatized the Belize Port Authority. The government is also negotiating with a foreign group for a management contract under a lease arrangement for the international airport but this arrangement fell through. Finally, the government after first awarding a private contract for the management of the government printery, has now privatized the printery. The inability to find a private investor has left the government with the ownership of a rice mill in the south of the country, perhaps the only area where it is still involved in productive activity.

The privatization of the utilities created monopolies. In the case of telecommunications, the company was awarded a fifteen years exclusive license which expired at the end of December 2002. With electricity and water utilities, the nature and level of investment costs lead to natural monopolies. The government established a Public Utilities Commission that was operational since 2000 to regulate these industries. The telecommunication and electricity offices were incorporated recently into this body.

Since the 1970s, when state enterprises “controlled the commanding heights of the economy,” Jamaica has embarked on a policy of privatization and divestment. During the
1980s and 1990s, divestment took place mainly in the insurance, banking, manufacturing, minerals and tourism sectors. Between 1981 and July 2001 some seventy-six (76) enterprises were privatized either by lease, sale of assets, or sale of shares. The last major divestment took place in 2001, when the GOJ privatized the Jamaica Public Service Company (JPSCo) and the use of the sale proceeds to reduce domestic debt. Currently, the GOJ is seeking to privatize some existing state enterprises, such as the motor vehicle inspection unit and the railroad services.

Air Jamaica, the national airline was partially privatized in 1994 and is currently 75 percent privately owned by a local entrepreneur, with the government retaining a 25 percent share holding. The two airports in Jamaica, the Norman Manley International Airport in Kingston and the Sangster International Airport in Montego Bay however, are still government owned. They are operated by the Airports Authority of Jamaica, a public sector body established by the Airports Authority Act. The management of the Sangster International was privatized in January 2003.

The government currently owns the following enterprises with no immediate plans for privatization: The National Water Commission, the Petroleum Corporation of Jamaica (PCJ), the Port Authority of Jamaica. In 1998, the government reversed the privatization trend by taking over sugar estates to save the failing sugar industry, and incorporated the Jamaica Urban Transport Corporation to ensure affordable service and make provisions for the disabled, elderly and children.

The Government of St. Lucia has partial or complete ownership of a number of state enterprises. Most of these enterprises are commercial or profit–making enterprises that are in direct competition with the private sector although some like the Utility companies and the Air and Seaports Authority are natural monopolies. Government ownership in state enterprises include: The Bank of St. Lucia (commercial banking), The St. Lucia Electricity Company (LUCELEC), The Water and Sewerage Corporation (WASCO), The National Insurance Corporation (social security), The Housing and Urban Development Corporation (housing development and property management), The St. Lucia Fish Marketing Corporation, The National Development Corporation, the St. Lucia Marketing Board, The Castries City Corporation (urban management), the St. Lucia Air and Seaports Authority, the National Lottery Corporation and the St. Lucia Tourist Board.

Privatization in St. Lucia has generally been slow and piecemeal. While successive governments have touted the success of privatization initiatives, these have in large measure been no more than either commercialization of state enterprises without relinquishing

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30 The GOJ sold 80% of its shares to an American firm Mirant Corporation.

31 The NIC has a wholly owned subsidiary, NIPRO, which is involved in property development and management.

government ownership, or partial divestment of erstwhile wholly owned government corporations such as the Bank of St. Lucia. Indeed the most comprehensive and successful divestment initiative on record is that of the Bank of St. Lucia and its progenitor, the National Commercial Bank of St. Lucia (NCB).

The Government of St. Vincent and the Grenadines has retained ownership in the following enterprises.

1. The Container Port (CP)
2. The National Broadcasting Corporation (NBC)
3. The Marketing Corporation (including a Supermarket)
4. The Arrowroot Association (AA)*
5. The National Commercial Bank (NCB)
6. The St. Vincent and the Grenadines Electricity Company (VINLEC)*
7. The Central Water and Sewage Authority (CWSA)*
8. National Insurance Scheme (NIS)
9. The St. Vincent and the Grenadines Development Bank (SVGDB)
10. The General Equipment and Services Corporation (GESCO)
12. The Banana Growers Association (BGA)*
13. The Container Corporation

*CWSA, VINLEC, AA, and BGA are legal monopolies. VINLEC and CWSA are legislated due to the size of the market, the essential nature of the services and the universal service obligation. AA and the BGA are legislated for quality control and to ensure consistent quantities to meet our allocated quota.

The rum distillery was divested to the private sector a few years ago. The distillery was a spin off from the operation of the Sugar Factory, part of the Sugar Industry that was closed over 15 years ago.

The Diamond Dairy (DD) was recently sold to a private concern. This was a government enterprise that was in limbo for a number of years under the previous government. The current government moved quickly after coming into office, to privatize this enterprise. The DD was commissioned to produce dairy products and juices. The facility is now in the process of being refitted and re-commissioned to be reopened in the near future.

The current government is actively pursuing privatization as a policy. To this end a number of state enterprises are earmarked for divestment in the medium term. These enterprises include the NCB, NBC, VINLEC, the Government Printery, and the Marketing

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33 The Bank of St. Lucia was created after a merger of the National Commercial Bank of St. Lucia and the St. Lucia Development Bank. The Government initially divested 60% of its shares in the NCB and after the merger in 2001 divested a further 10%.
Corporation, especially the Supermarket. The BGA is in the process of being restructured, more private sector control will be one of the results of this process. From 2003 the post office will no longer be a department of a Ministry, it will be a legally constituted body along the lines of a public enterprise. Full Privatization may eventually follow in the long term.

The St. Vincent and the Grenadines Marketing Corporation is the sole importer of sugar in bulk. Until recently, the Corporation also had the monopoly on the importation of bulk rice and of edible oils and fats. The Corporation is mainly responsible for food security and does not fix prices. In the case of raw sugar, the price is fixed by Regulation. The price of refined sugar is determined by tender and influenced by the Corporation’s purchasing decisions.

In Trinidad and Tobago the role of the state has changed considerably in the post-adjustment phase of the country’s economic development. During years of economic boom, the state assumed the leading role in the country’s development by actively engaging in economic activity through state-owned enterprises. Government invested heavily in the industrial sector, in an attempt to diversify the economy away from a dependence on petroleum and petroleum products. The Point Lisas Industrial Estate was developed with heavy industries in Urea, Methanol, Ammonia, Iron and Steel among others. Government also invested in other sectors of the economy – agriculture, financial services, transport, manufacturing, media and telecommunications amongst others. However, economic recession and the resultant need for structural adjustment revealed the unacceptably high cost of maintaining the public enterprise sector at that time. This precipitated a concerted attempt by government to rationalize its involvement in economic activity and in particular, in productive activity.

Government therefore embarked on a Divestment Program in 1993 and a Divestment Secretariat was established to undertake Government’s planned divestment. To date, Government has divested either all or part of its holdings in about thirty-three (33) enterprises. Currently, government still has full ownership of 25 companies, which exist in areas such as energy and energy-based industries, financial services, manufacturing and agro-based industries, services and transport and communication. Government also has majority holding in 5 companies, three of which are engaged in financial services, with the remaining two in the service and transport and communications industries. The state also has minority ownership in six companies; two in the financial services industry, another two in the manufacturing and agro-based industry and the remaining two in the transport and communication industry.

Table 9 below summarises the major sectors in which there is government involvement in production.
2.4 State Aid

Direct Transfers to Firms

In Belize, price support is provided to 1,400 small predominantly subsistence rice farmers in the South of the country. This support has been in existence for over twenty years and withdrawing this support would be very problematic, since viable alternative income sources are not available to these farmers. Other rice farmers in the country do not enjoy this support. The government pays about US$0.02 per pound for soybeans under a new soybean expansion project.

Apart from transfers to rice and soybean farmers there have been cases (very rarely) of inputs being provided below cost, in specific agricultural activities, for example, sale of breeding bulls at half cost to farmers to improve milk production. The rest of the cost is met by the profits of the sale of imported milk by the Belize Marketing Board. Some relief was provided to sugar cane farmers on transportation costs to the factory by allowing them access to fuel at duty free prices.

Apart from Belize, the only other country where there has been direct transfers of state aid has been in the sugar industry in Trinidad and Tobago. The industry has been sustained as a state enterprise for the last decade or more because of the fragile socio-political situation. However, the government has just (August 2003) closed the company and is restructuring the industry.

All other assistance rendered by government has been in the form of incentives and concessionary loans that are not subsidised. Rather they are at preferred rates. Inputs are not sold at below market price, except in the special case in Belize. In St. Vincent, health care and education are heavily subsidized, as are planting material for important crop sectors. This is done primarily to control the quality of planting material, specifically to have some measure of control over disease and pest resistance, so as to ensure food security to some extent.
### Table 9: State-owned Enterprises Across Case Countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Bahamas</th>
<th>Belize</th>
<th>Jamaica</th>
<th>St. Lucia</th>
<th>St. Vincent</th>
<th>Trinidad &amp; Tobago</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Utilities</strong></td>
<td>Water and Sewerage, Electricity, Telecommunications</td>
<td>None</td>
<td>Water</td>
<td>Electricity, Water and Sewerage</td>
<td>Electricity, Water, Solid Waste and Sewerage</td>
<td>Water</td>
</tr>
<tr>
<td><strong>Infrastruc-</strong></td>
<td>Airport</td>
<td>Airport</td>
<td>Port Authority</td>
<td>Air and Seaports</td>
<td>All Major Air and Sea Ports</td>
<td>Airport Authority Port Authority</td>
</tr>
<tr>
<td>Public Interest/Social Sectors</td>
<td>• Hospitals, Development Banking, Tertiary Education, • Agriculture and Industrial Planning • National Insurance Board • Media • Airline</td>
<td>• Hospitals; • Some Primary, Secondary and Tertiary Schools; • Development Finance Corporation; • POST Office • Belize Agricultural Health Authority</td>
<td>Jamaica Urban Transport Corporation</td>
<td>Urban Development,</td>
<td>• National Broadcasting, • Development Banking, • Hospital, • Most Schools, • Housing and Land Dev't Corp.</td>
<td>Hospitals, Broadcasting, Tertiary Education,</td>
</tr>
<tr>
<td><strong>Other</strong></td>
<td>Central Bank, Mortgage Corporation, Tourism Training Securities Commission Maritime Authority</td>
<td>• Rice Mill • Belize Marketing Board • Belize Tourism Board</td>
<td>Petromin</td>
<td>• National Development Banking • Marketing Board, National Lottery</td>
<td>• National Board, National Lottery, • National Commercial Bank • Gov't Printery</td>
<td>• Energy-based industries • Manu. &amp; Agro-base Industry • Financial Services • Transport • Media</td>
</tr>
</tbody>
</table>

### 2.5 Legal Monopolies: The Special Case of Freeport

Freeport in the Bahamas was created by the Hawksbill Creek Agreement of 1955, which was enshrined in Parliament. By this Agreement, the government granted land to the Grand Bahama Port Authority (GBPA) owned by an American, to develop a free port and industrial centre, and the right to purchase adjoining properties. In return, the GBPA undertook to dredge and construct a deep-water harbour and turning basin at Hawksbill Creek, as a precursor to setting up an industrial estate.

By this agreement, the government granted such wide concessions as to render Freeport as “private property of the Port Authority in whom was vested the supreme right to its administration and control.”

Freeport was subsequently expanded to include tourist resorts. Property was sold to private individuals for homes, of which not less than 99 percent of buyers were foreigners whose interest was leisure, gambling, golf and retirement.

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Authority required that anyone who wished to engage in business in Freeport obtained a license from that Authority. Monopolies were granted for the life-span of the Agreement, until 2054. Since the late 1960s, the conditions in Freeport have changed considerably. As a result of the Pindling government’s challenge of the right to grant work permits in 1969, the government now has some influence in Freeport. However, this is still minimal. This gain came at great cost, though, as licensees and residents in Freeport felt that the government had reneged on its commitment to the Agreement. The result was great resentment, a protracted battle between the government and residents of Freeport, loss of confidence and an exodus from the island during the 1970s. Since then, many Bahamians have taken up residence and the GBPA is non-discriminating in the grant of licenses. However, the grant of monopolies in the initial stage of Freeport’s life remains valid.

The Hawksbill Creek Agreement cannot be changed unless four-fifths of the licensees agree. Windixie was granted a monopoly for having a supermarket, petrol distribution is supplied under a monopoly, the Bahama Brewery has a monopoly, and other monopolies exist. The government of the Bahamas is unable to intervene in the conduct of these monopolies because of the terms of the Hawksbill Creek Agreement. Any competition law developed in the Bahamas would have to grandfather in the exclusivity of legal monopolies that exist until 2054 under the Agreement, according to legal opinion obtained during interviews.

2.6 Intra-Regional Trade and Investment

Despite efforts to increase intra-regional trade since 1968, with the creation of the Caribbean Free Trade Association, and its deepening into the Caribbean Community (CARICOM), the level of trade in the region is still very poor. The major problem is that these countries largely produce competing goods and services: sugar, bananas, tourism. There is reliance on external sources for most manufactured goods. Trinidad and Tobago penetrated most CARICOM markets in a range of products and has a positive trade balance with the rest of the region. Apart from Trinidad and Tobago, Belize is the only other CARICOM countries with a positive intra-regional trade balance, largely because Belize has succeeded in penetrating intra-regional markets with a range of agricultural products. Please note, however, that for the three years of data (2000-2002) available from the Central Statistical Office, the balance of trade with Belize was negative.

In 1998, Trinidad and Tobago led the region in intra-regional trade with a positive balance of EC$1.7 billion, an increase of EC$1.2 billion from the 1990 figure of EC$500.5 million. Apart from Trinidad and Tobago, only Belize registered a positive balance of EC$2.5 million. The rest of the region all have negative trade balances in intra-regional trade, with the benefits accruing largely to Trinidad and Tobago. It is understandable that firms in the rest of the region feel threatened by firms from Trinidad and Tobago.

35 Ibid., p. 31.
36 Figures taken from the IADB/INTAL, 2002, CARICOM Report No. 1, p. 9. Grenada’s positive balance of EC$122.6m as reflected in that table is a mistake and is in fact, a negative balance. This was confirmed with the author of the report.
Intra-CARICOM exports are dominated by petroleum and petroleum products and by non-traditional manufacturers such as paper and paper board, cigarette paper, waters (including mineral and aerated waters), miscellaneous edible products and preparations, organic surface-active agents (other than soap); surface-active preparations, washing preparations (including auxiliary washing preparations) and cleansing preparations (whether containing soap or not) building cement, iron and steel (IADB/INTAL 2002 CARICOM Report Vol. 1, P. 5).

Table 10 and 11 provides data on Belize’s intra-regional imports and exports.

The poor performance of intra-regional trade, notwithstanding the inroads made by Trinidad and Tobago, is reflected in the minuscule percentage of this trade to total trade. Interestingly, despite thirty-five years of movement to integrate these economies, the trends have varied little in respect of direction of imports. Regional imports as a percentage of total imports have varied little since 1973, as the following figures show: 1973 – 7.5 percent; 1981 – 9.54 percent; 1989 – 8.8 percent; 1990-1998 the figure has remained consistent at 9.5 percent.

Intra-regional exports to total exports has shown growth, increasing from approximately 10.7 percent in 1973 and 10.97 percent in 1986 to 16.5 percent in 1995 and 22.9 percent in 1998.\(^{37}\)

According to the IADB/INTAL Report on CARICOM, intra-regional investment has not been at a volume or rate that could be considered compatible with the integration process, and has been fragmented and sporadic. There has been some cross-border investment in manufacturing/distribution and financial services and in tourism. For instance, the Jamaican Sandals Hotel chain has been expanding into the region. Most investment emanates from Barbados and Trinidad and Tobago. The report provides CARICOM data showing that of 39 companies studied effecting cross-border operations, 33 had their head office in the MDCs. Trinidad and Tobago had 16 locations in other CARICOM countries, Barbados – 10; Jamaica – 6; Guyana – 4; Antigua and Barbuda – 1; SVG – 1; and St. Lucia – 1.\(^{38}\)


\(^{38}\) IADB/INTAL CARICOM Report (op. cit.), p. 14-15. The data are from 2000, and since then there has been further cross-border investment. However, figures are not readily available.
Having examined the structure of the economies and the policy framework that define the space for competition, and having identified the non-tradable sector, the report will focus in the next section on sectoral studies in the banking, tourism and production of selected goods and services. This will provide in-depth analysis of important sectors in these economies where there are competition problems, or where government policies restrict competition.
Table 10: Value of Belize’s Imports From CARICOM – 2002

<table>
<thead>
<tr>
<th></th>
<th>Total Value</th>
<th>Antigua &amp; Barbuda</th>
<th>Barbados</th>
<th>Bahamas</th>
<th>Dominica</th>
<th>Grenada</th>
<th>Guyana</th>
<th>Jamaica</th>
<th>St Kitts &amp; Nevis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food preparations</td>
<td>3,856,374</td>
<td>1,678,402</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Toiletries</td>
<td>846,114</td>
<td></td>
<td>548,628</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Beverages</td>
<td>480,861</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>323,134</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wines/Beer/Alcoholic Beverages</td>
<td>384,627</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>236,769</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Paints/varnishes</td>
<td>1,660,350</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Napkins/Toilet paper</td>
<td>2,065,281</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td>Construction materials</td>
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<td>Insecticides</td>
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<tr>
<td>Blanks/paper/books</td>
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<td>51,826</td>
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<tr>
<td>Other</td>
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<td>240,534</td>
<td>24,239</td>
<td>59,661</td>
<td>58,901</td>
<td>666,271</td>
<td>609,576</td>
<td>4,262,613</td>
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<tr>
<td>% of CARICOM Imports</td>
<td>100%</td>
<td>0.3%</td>
<td>17.4%</td>
<td>1.9%</td>
<td>4.5%</td>
<td>0.4%</td>
<td>4.0%</td>
<td>28.0%</td>
<td>0.0%</td>
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<tr>
<td>% of Gross Domestic Imports</td>
<td>2.8%</td>
<td>0.0%</td>
<td>0.5%</td>
<td>0.1%</td>
<td>0.1%</td>
<td>0.0%</td>
<td>0.1%</td>
<td>0.8%</td>
<td>0.0%</td>
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</table>

Table 11: Value of Belize’s Exports to CARICOM – 2002

<table>
<thead>
<tr>
<th></th>
<th>Total Value</th>
<th>Antigua &amp; Barbuda</th>
<th>Barbados</th>
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<td>547,158</td>
<td>3,039</td>
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<td>Household items</td>
<td>824,755</td>
<td>6,409</td>
<td>123,631</td>
<td>9,159</td>
<td>73,849</td>
<td>20,111</td>
<td>39,317</td>
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<tr>
<td>Medicines</td>
<td>195,473</td>
<td></td>
<td>61,066</td>
<td></td>
<td></td>
<td>3,154</td>
<td>125,312</td>
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<tr>
<td>Insecticides</td>
<td>419,249</td>
<td></td>
<td>162,424</td>
<td></td>
<td></td>
<td>34,954</td>
<td></td>
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<tr>
<td>Butane</td>
<td>252,055</td>
<td></td>
<td></td>
<td></td>
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<td>252,055</td>
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</tr>
<tr>
<td>Blanks/paper/books</td>
<td>373,106</td>
<td>5,571</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3,578</td>
<td></td>
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<tr>
<td>Boxes</td>
<td>61,820</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Bicycles</td>
<td>51,826</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>51,826</td>
<td></td>
<td></td>
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<tr>
<td>Other</td>
<td>2,055,346</td>
<td>40,283</td>
<td>240,534</td>
<td>24,239</td>
<td>59,661</td>
<td>58,901</td>
<td>666,271</td>
<td>609,576</td>
<td>4,262,613</td>
</tr>
<tr>
<td>% of CARICOM Imports</td>
<td>100%</td>
<td>0.3%</td>
<td>17.4%</td>
<td>1.9%</td>
<td>4.5%</td>
<td>0.4%</td>
<td>4.0%</td>
<td>28.0%</td>
<td>0.0%</td>
</tr>
<tr>
<td>% of Gross Domestic Imports</td>
<td>2.8%</td>
<td>0.0%</td>
<td>0.5%</td>
<td>0.1%</td>
<td>0.1%</td>
<td>0.0%</td>
<td>0.1%</td>
<td>0.8%</td>
<td>0.0%</td>
</tr>
<tr>
<td>Item</td>
<td>Total Value</td>
<td>Antigua &amp; Barbuda</td>
<td>Barbados</td>
<td>Guyana</td>
<td>Jamaica</td>
<td>Suriname</td>
<td>Trinidad &amp; Tobago</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>-------------</td>
<td>-------------------</td>
<td>----------</td>
<td>--------</td>
<td>---------</td>
<td>----------</td>
<td>-------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Beans of the specie vigna mungo</td>
<td>19,908</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>19,908</td>
<td>-</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Blackeye peas</td>
<td>678,496</td>
<td>-</td>
<td>20,940</td>
<td>384,163</td>
<td>3,368</td>
<td>52,285</td>
<td>217,741</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cane sugar</td>
<td>1,594,678</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1,470,928</td>
<td>-</td>
<td>123,750</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Citrus nec</td>
<td>5,176,596</td>
<td>-</td>
<td>1,925,750</td>
<td>112,662</td>
<td>626,729</td>
<td>-</td>
<td>2,511,455</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Farm shrimp</td>
<td>151,597</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>151,597</td>
<td>-</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Grapefruit concentrate</td>
<td>25,358</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>25,358</td>
<td>-</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Orange concentrate</td>
<td>2,531,331</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2,531,331</td>
<td>-</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other mixture of juices</td>
<td>45,209</td>
<td>45,209</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other orange juice</td>
<td>21,583</td>
<td>21,583</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other pineapple juice</td>
<td>22,718</td>
<td>22,718</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Red Kidney beans</td>
<td>576,812</td>
<td>-</td>
<td>7,466</td>
<td>-</td>
<td>414,973</td>
<td>-</td>
<td>154,374</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Small red beans</td>
<td>44,800</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>44,800</td>
<td>-</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Toilet paper</td>
<td>181,611</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>181,611</td>
<td>-</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>36,236</td>
<td>12,266</td>
<td>-</td>
<td>-</td>
<td>23,970</td>
<td>-</td>
<td>-</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>11,106,933</td>
<td>101,776</td>
<td>1,954,156</td>
<td>496,825</td>
<td>5,494,573</td>
<td>52,285</td>
<td>3,007,320</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

% of CARICOM Exports: 100.0% 0.9% 17.6% 4.5% 49.5% 0.5% 27.1%
% of Domestic Exports: 6.9% 0.1% 1.2% 0.3% 3.4% 0.0% 1.9%
SECTION 3

SECTORAL ANALYSIS

3. Empirical Findings in Selected Sectors

3.1 Banking

3.1.1 Level of Openness

There are no barriers to entry of foreign banks in the CARICOM region, but this is subject to the Company Registration laws and due diligence procedures normally required in the financial sector. All banks have had to take measures in recent times to conform to the OECD anti-money laundering requirements and US anti-terrorism requirements for transparency and scrutiny of accounts. In Belize, banks have developed an exemption list of customers based on patterns of deposits over years which show that business is not financed by drug money. However, the banks also conduct due diligence on all accounts. After the financial collapse in Jamaica in 1997, banks in that country have had to adopt international standards.

Suitcase bankers, who do not want a physical presence in the country but are willing to offer the service, are present in the region. Such companies include Bear Stern and Morgan (Stanley &Co.), who simply enter the country, conduct business and leave, operating outside of the Financial Institutions Act and Central Bank rules, which is extremely worrying. They are operating largely in the petroleum and petrol-chemical sectors and other high cost infrastructure industries like bauxite mining. The capital base of domestically based banks is too small to finance such large projects. Suitcase insurance providers also cover such large investments.

In Belize, while there are no regulatory barriers beyond prudential ones, existing local players were unhappy with the new entrant, Alliance Bank. There is a view that they colluded to delay the administrative process as much as possible. According to many interviewees, there are reputedly some governance issues involved in the emergence of this bank, in that the Board of Directors are alleged to be known supporters of the political party in power at the time of its creation, and which was re-elected, and that they benefited from this relationship.

3.1.2 Structure of the Sector

In most countries there are six to eight banks, most of which are foreign. Table 11 provides a list of the banks operating in the six countries under study.
Table 12: Resident Commercial Banks

<table>
<thead>
<tr>
<th>Bahamas</th>
<th>Belize</th>
<th>Jamaica</th>
<th>St. Lucia</th>
<th>SVG</th>
<th>Trinidad and Tobago</th>
</tr>
</thead>
<tbody>
<tr>
<td>(4) Royal Bank of Canada</td>
<td>- Royal Bank of Canada (F)</td>
<td>- National Commercial Bank (F/L)</td>
<td>- Bank of St. Lucia (L)</td>
<td>- National Commercial Bank (L)</td>
<td>(5) Republic Bank (L) of T&amp;T</td>
</tr>
<tr>
<td>(1) Scotia Bank Bahamas</td>
<td>(1) Bank of Nova Scotia (F)</td>
<td>(1) First Global Bank (L)</td>
<td>(4) Royal Bank of Canada (F)</td>
<td>(4) First St. Vincent Bank (L)</td>
<td>- FCB (L)</td>
</tr>
<tr>
<td>Ltd. (F)</td>
<td>(F)</td>
<td></td>
<td>(F)</td>
<td>(F)</td>
<td></td>
</tr>
<tr>
<td>- Bank of the Bahamas</td>
<td>- Atlantic Bank (F/L)</td>
<td></td>
<td></td>
<td></td>
<td>(1) Bank of Nova Scotia (F)</td>
</tr>
<tr>
<td>(L)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(2) FCIB (F)</td>
<td>(2) FCIB (F)</td>
<td>(1) Bank of Nova Scotia (F)</td>
<td>(1) Bank of Nova Scotia (F)</td>
<td>- St. Vincent Cooperative Bank (L)</td>
<td></td>
</tr>
<tr>
<td>- Commonwealth Bank (L)</td>
<td>(L)</td>
<td>(3) RBTT (C)</td>
<td>(2) RBTT Ltd. (C)</td>
<td>(2) FCIB (F)</td>
<td>- Inter-commercial (F)</td>
</tr>
<tr>
<td>- City Bank (F)</td>
<td></td>
<td>(3) FCIB (F)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- British American Bank</td>
<td></td>
<td>(2) FCIB</td>
<td>(1) Bank of Nova Scotia (F)</td>
<td>(2) RCTT Ltd. (L)</td>
<td></td>
</tr>
<tr>
<td>(F/L)</td>
<td></td>
<td></td>
<td>(5) Citibank (F)</td>
<td>(6) Republic Bank of Trinidad &amp; Tobago (C)</td>
<td></td>
</tr>
<tr>
<td>- Finance Corporation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of the Bahamas (F/L)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

F - Foreign
L - Local
C - CARICOM
F/L Foreign and Locally Owned

The most significant recent change in the banking sector in the region was the merger between Barclays Bank and Canadian Imperial Bank of Commerce to form the First Caribbean International Bank (FCIB) in 2002. This merger was in response to global trends in the banking sector, and in preparation for the competition anticipated from implementation of the FTAA Agreement. Table 12 shows that FCIB is present in all the countries under study except Trinidad and Tobago where Barclays Bank was nationalised in the 1970s and renamed Republic Bank. There is now an alliance between Republic Bank and CIBC in Trinidad. It is noteworthy that Bank of Nova Scotia is present in all six countries, and that RBTT has made inroads into the intra-regional market.

Bahamas

In the Bahamas, largely foreign investors from North America and Britain control the commercial banking sector. Of the eight commercial banks operating in the economy, five are foreign owned, one is quasi-local, and two have local ownership. The assets of these banks range from billions of dollars to US$150 million. There is a spread of business
coverage, so that Bank of Nova Scotia (Scotia Bank) concentrates on hotel financing while Royal Bank of Canada covers most government’s business. The Commonwealth and British American Banks are consumer driven, providing loans at high interest rates (14-18 percent).

The banking sector is highly regulated, with barriers to entry. Only licensed financial institutions are allowed to operate. The Central Bank is responsible for issuing all such licenses. The population in the banking system is about 100,000. The country has a fixed exchange rate with the Bahamian dollar pegged to the US dollar at US$1 equal to Bahamas $1 since 1973.

The major objective of monetary policy is to maintain stable credit and other conditions to support the exchange rate parity while simultaneously facilitating economic growth and development. The Central Bank focuses on managing the growth of money supply so that the domestic and external value of the currency is not undermined. The main instruments of monetary policy that are used to influence credit growth and liquidity are reserve requirements of the commercial banks, changes in the Central Bank’s discount rate (the rate at which the Central Bank lends to the commercial banks) and selective credit controls, supplemented by moral suasion. Presently, the reserve requirements consist of a primary reserve requirement that should be cash holdings equivalent to 5 percent of the average deposit liabilities and a secondary reserve requirement that should be 20 percent of the demand deposit liabilities and 15 percent of the savings and time deposits. The Central Bank uses the discount rate to influence interest rates, with an increase in the discount rate discouraging lending and a lowering of the discount rate spurring credit growth.

The Central Bank establishes the prime rate and the banks set the discount rate. The last time the bank interest rate was changed was in July 1999 when it went down by 1/4 percent. Interest rates are kept stable because the expected effects on this economy of movement of interest rates are not experienced. The Bahamian economy is dependent on tourism and financial services, and foreign currency earning is the major objective of the leading sectors of the economy. Movement in interest rates does not affect these sectors, investment in which is determined by global factors. Market operations in the conduct of monetary policy are very limited and are restricted to the issue of treasury bills and bonds on behalf of the government. The Central Bank has in the past, imposed a direct freeze on the outstanding level of credit, allowing commercial banks to grant new loans only to the extent of resources obtained from ongoing repayments. Moral suasion has also been used to influence the lending direction of the banks.

Exchange controls to manage the inflow and outflow of foreign currency from the economy are in place to support the fixed exchange rate regime by preventing large destabilizing outflows or inflows of foreign funds. Current account transactions (trade in goods and services) are fairly open with payment approvals generally not withheld for legitimate transactions. The commercial banks have been delegated the authority to approve and process certain of these transactions. Certain foreign exchange transactions, including capital account transactions, fall outside the authority of the commercial banks (Authorised Dealers) and must be referred to the Central Bank for approval. These include but are not limited to loans, dividends, profits, capital repatriation, issue and transfer of shares,
investments abroad and foreign currency accounts. The IMF, in its most recent review of the economy, is strongly urging the government to liberalise its capital account. In general, the Bahamas has a fairly well developed, sophisticated banking sector with a significant offshore banking sub-sector.

The weighted average lending rate for 2002 was 11.33 percent while the weighted average deposit rate was 4.11 percent, resulting in an interest rate spread of 7.2 per cent. Lending rates have trended downwards at a faster pace than the drop in deposit rates, resulting in one of the lowest interest rate spreads in the CARICOM region (see Figure 2 below). Minimum interest rates of 2 percent on savings and 2 percent on fixed time deposits exist.

![Figure 2. Average Weighted Lending Rate (AWLR) and Deposit Rate (AWDR), Interest Rate Spread, Bahamas](image)

The Central Bank supervises all commercial banks and other local financial institutions such as trust companies. The Cooperative department supervises the credit unions.

**Belize**

There are five commercial banks in Belize, of which two are branches of foreign banks, while a third is majority owned by foreign interests. Table 13 lists the ownership structure of the banks and the market share held by each.
Table 13. Ownership and Market Structure of Commercial Banks: Belize

<table>
<thead>
<tr>
<th>Bank</th>
<th>Ownership</th>
<th>Market Share of Deposits</th>
<th>Nationality of Foreign Owner(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Local %</td>
<td>Foreign %</td>
<td></td>
</tr>
<tr>
<td>Atlantic Bank</td>
<td>35</td>
<td>65</td>
<td>15.6</td>
</tr>
<tr>
<td>Alliance Bank of Belize Limited</td>
<td>89</td>
<td>11</td>
<td>6.9</td>
</tr>
<tr>
<td>Bank of Nova Scotia</td>
<td>100</td>
<td>100</td>
<td>18.1</td>
</tr>
<tr>
<td>Belize Bank Limited</td>
<td>100</td>
<td>100</td>
<td>46.2</td>
</tr>
<tr>
<td>First Caribbean International Bank</td>
<td>100</td>
<td>100</td>
<td>13.2</td>
</tr>
</tbody>
</table>

Alliance Bank began operations in 2001, so it is the newest entrant into the market place. The small size of the domestic market limits the number of operators.

A license must be obtained to operate a banking business. The sector is open to foreign investors. The minimum capital requirement for a domestically owned bank is BZ$3.0mn (equivalent to US$1.5mn) of fully paid up and unimpaired share capital. In the case of a foreign bank, its total worldwide and fully paid up capital should not be less than BZ$50.0mn, while its assigned and fully paid up capital should not be less than BZ$3.0mn.

The country has a fixed exchange rate with the Belize dollar pegged at BZ$2 to US$1 since May of 1976. The objectives of monetary policy are to foster monetary stability through maintaining the fixed exchange rate and promoting credit conditions conducive to economic growth. The Central Bank conducts monetary policy by its indirect influence on the growth of money supply and credit. Because exchange controls limit the free movement of capital, the major monetary tool of importance is the statutory reserve requirements of the commercial banks and not interest rates. Currently, these consist of a primary cash reserve requirement equivalent to an average of 6 percent of the total deposit liabilities of the commercial bank and a secondary reserve requirement equivalent to 24 percent of total deposit liabilities, of which the cash reserves form a part. No interest is earned on the cash reserves but the remaining 18 percent of the secondary reserve requirement can be held in approved liquid assets such as treasury bills and new mortgage loans that earn interest ranging from 3.2 percent up to 12 percent. The Central Bank’s lending rate to the commercial banks is 12 percent and the minimum interest rate to be offered on savings deposits is 4.5 percent. Market operations are very limited and restricted to the issue of government treasury bills, treasury notes and bonds. While the Central Bank generally does not intervene directly to adjust interest rates, it did attempt to reduce interest rates on mortgages by allowing loans for new mortgages to qualify as an approved liquid asset (part of the secondary reserve requirement) if the loan was offered at 12 percent.

Exchange control regulations are in place. The current account transactions are largely liberalized where the Central Bank has delegated authority to the commercial banks and the Cambios (bureaus of exchange that can buy and sell foreign currency) to approve most transactions dealing with the sale and purchase of goods and services. All capital account transactions and some current account ones, including payment of interest, profits or dividends, require the approval of the Central Bank. Capital account transactions refer to
financial flows for investment, loans, bonds, shares, cash deposits and so on. Generally, approval for outward investment is considered on a case-by-case basis.

The financial market is quite shallow, especially given the lack of a capital market. Banking services are concentrated in regular loans and collateral requirements are generally quite stringent. The country has a small offshore banking sector with licenses issued to seven offshore banks, six of which are presently operating.

The main dissatisfaction that consumers have is the high lending rate. The weighted average lending rate increased steadily from 14.3 percent in 1990 reaching a high of 16.6 percent in 1997, after which it declined, ending at 14.5 percent at December 2002. Underpinning the decline in lending rates has been the government’s move in 1998 to allow lending for new mortgages at 12 percent to qualify as approved liquid asset. The entrance of a new bank in 2001 seemed to have spurred some competition as the weighted average lending rate experienced its largest drop, a fall of 90 basis points, in 2002. In synchrony with the drop in lending rates after 1997, the weighted average deposit rate also declined, but at a faster pace than the lending rate, leading to an actual widening in the interest rate spread made by commercial banks. It was only in 2002, after a steady decline over the previous 5 years, that the weighted average deposit rate edged upward from 4.3 percent in 2001 to 4.5 percent in 2002. While competition from the new bank was a contributing factor to the modest interest increase, the raising of the cash reserve requirement from 3 percent of time and savings deposits and 5 percent of demand deposits to an average of 6 percent of all deposit liabilities in October 2002 also contributed as banks actively sought deposits. Hence, at December 2002, the weighted average spread stood at 10.0 percent (see Figure 3). With no deposit insurance scheme in place, this large spread is justified by the banks which claim that the statutory liquidity requirement of 24 percent is a major cost that feeds into their high lending interest rates.
The Central Bank is responsible for the supervision of the commercial banks, offshore banks and Cambios. The Supervisor of Insurance supervises the insurance sector while the Cooperative Department supervises credit unions. The credit unions are not subject to corporate taxes.

Jamaica

The financial services sector comprises the activity of commercial banks, merchant banks, building societies, development banks, credit unions and insurance companies.

Of the six commercial banks currently operating in Jamaica, five are foreign-owned and one locally-owned. The six banks have a branch network of approximately 125 branches (Table 13).

### Table 14. Ownership Structure and Branch Network

<table>
<thead>
<tr>
<th>Institutions</th>
<th>No. of Branches</th>
<th>Ownership</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bank of Nova Scotia</td>
<td>41</td>
<td>Foreign</td>
</tr>
<tr>
<td>Royal Bank of Trinidad &amp; Tobago Jamaica Ltd.</td>
<td>23</td>
<td>Foreign</td>
</tr>
<tr>
<td>Citibank N.A.</td>
<td>2</td>
<td>Foreign</td>
</tr>
<tr>
<td>First Caribbean International Bank Jamaica</td>
<td>12</td>
<td>Foreign</td>
</tr>
<tr>
<td>National Commercial Bank Jamaica</td>
<td>47</td>
<td>Foreign/Locall</td>
</tr>
<tr>
<td>First Global Bank</td>
<td>1</td>
<td>Local</td>
</tr>
</tbody>
</table>
The Jamaican banking sector experienced a crisis in the mid 1990s, and this has had a profound influence on activities in this sector since. The roots of the crisis were laid in the 1980s when the government privatized many of the banks that had been nationalized in the 1970s. The variety and number of financial institutions subsequently grew rapidly, with Jamaica experiencing a credit boom. This growth however, was not accompanied by the corresponding development in supervisory and oversight capacity. With weak and deficient legal, regulatory and supervisory oversight, management of many of the financial institutions was highly deficient. Poor risk management characterised the loan portfolios, with many loans inadequately collaterised or given to major shareholders, “connected lendings” and hence, poorly supervised. Some institutions were overly exposed through loan concentrations. Operating costs were excessive and many of the banks were undercapitalised. Insurance companies played a key role in precipitating the crisis. These companies were taking in deposits and using the funds to finance longer-term investment projects such as real estate and tourism.

This substantial mismatch in the maturity structure of their assets and liabilities caused a liquidity crunch in 1995 that rapidly spread to the banks and signalled the start of a full-blown financial crisis. According to a bank manager who was interviewed, “Investors behaved with a sense of infallibility.” The regulator was blamed for bad judgement and laxity. While the government did step in with a stabilisation agenda, its initial handling of the crisis was criticized as further undermining depositors’ confidence and partly instrumental in triggering a run on the floundering banks. The view was that it should have ensured that the remaining banks coalesced around the first bank that went into crisis, and saved it. This crisis provided the opportunity for RBTT to enter the market with a take-over, since local entrepreneurs did not want to buy the floundering banks.

Consequently, over the period 1996-2002, the financial stabilization programme has led to significant consolidation in this sector (Table 15). In 1996, there was a total of 189 financial institutions. By the end of 2002 that number had declined to 100, with each sub-sector recording a decline in the number of institutions. In January 1997, the government formed the Financial Sector Adjustment Company (Finsac) to restructure and stabilise the financial sector. Finsac took over one enterprise which comprised a commercial bank, building society and other companies and acquired shares in three other commercial banks and five insurance companies in exchange for financial support. It should be noted that all the banks that failed or required financial assistance were locally owned banks.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial Banks</td>
<td>11</td>
<td>9</td>
<td>9</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
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The legacy of the crisis includes among other things, implementation of deposit insurance, tightened supervisory, regulatory and legislative framework, controls and provisions on lending, improvement in capital requirements, limits on fixed assets and investments and enhancement of overall transparency. Supervision has been consolidated with the Bank of Jamaica responsible for supervising commercial banks, merchant banks, building societies and credit unions.

To strengthen the financial sector reform, the government established a new non-bank supervisory authority, the Financial Services Commission, to regulate all other financial services other than banking. FSC regulates securities, collective investment funds, the insurance industry and private pension funds.

Jamaica’s exchange rate regime is a managed float with no pre-announced path for the exchange rate. Despite the managed float, the exchange rate remains relatively volatile. Capital controls in place require that the Bank of Jamaica’s approval be obtained for transactions involving money market instruments and investment securities. Jamaica operates a small stock exchange, one of three CARICOM countries that are the furthest advanced in deepening their financial market.

The major objectives of monetary policy are to safeguard the value of the domestic currency and the stability of the financial system. Monetary policies seek therefore to regulate the growth of money and credit in line with the resources required to finance economic activity and generate employment without undermining price stability. The main instruments of monetary policy used to control the growth of money supply and credit are open market operations and reserve requirements. Open market operations involve the issuance of government securities and Bank of Jamaica’s certificates of deposits. When the government sells these to the banks and public, money supply contracts (since money is removed from circulation), while purchases by the government increase money supply. The reserve requirements that stipulate the designated portion of deposits that a financial institution must keep on hand or hold on deposit at the Bank of Jamaica also influence the amount of money available for loans and so influences credit growth and money supply as well. The required cash reserve ratio (which earns no interest) has been steadily decreasing and stood at 9.0 percent of deposit liabilities at December 2002. The required liquid asset ratio (LAR), which includes the cash reserves, has also been steadily reducing and stood at 23.0 percent of deposit liabilities at December 2002. Since 14 percent of the LAR can be held in approved liquid assets such as government’s securities, this portion does earn income from the interest payable on the securities.

Interest rates, especially in view of the recent financial crisis, are fairly high. At December 2002, the average weighted lending rate was 18.76 percent while the average weighted deposit rate was 6.88 percent, leading to an interest rate spread of 11.88 percent. A recent review\textsuperscript{39} on the profitability of the Jamaican banking system attributes the size of the interest rate spread to the economic environment as well as the internal characteristics of the banks. Deposit rates were affected by high inflation in the early 1990s so that the banks had

to offer at least 10 percent in order to attract deposits. With inflation down to single digit numbers, deposit rates have declined. On the other hand, lending rates have been influenced by Government instruments that have competed for deposits and effectively set a flooring for lending rates. Reserve requirements, particularly the cash reserve requirement, have also contributed to the bank spread. It is estimated that when loan rates were between 20.5 percent and 23.4 percent, the cash reserve requirement contributed about 3 percentage points to the loan rate. When the cash reserve requirement declined to 10 per cent from 25 percent, the spread was reduced by less than 2 percentage points. The majority of the spread went into the high overhead costs of the banks. Other risks that widened the interest rate spread included exchange rate risks, limited access to information, policy shocks and other macroeconomic factors that affected economic stability.

![Figure 4. Average Weighted Lending Rate (AWLR) and Deposit Rate (AWDR), Interest Rate Spread in Jamaica](image)

**Insurance Companies**

The insurance industry comprises insurance companies and their intermediaries. Currently there are 14 general and 7 life insurance companies, 3 health insurance providers, 24 insurance brokers and 13 agents. All companies within this sector are regulated by the Financial Services Commission, and the main legislation is the Insurance Act, 2001.

**Regulatory Environment – St. Lucia and SVG**

St. Lucia and SVG are two of the eight members of the Organisation of Eastern Caribbean Countries (OECS) forming a monetary union and having a regional/multinational central bank known as the Eastern Caribbean Central Bank (ECCB). The regulatory and legislative environment for commercial banks is similar across the monetary union.
The financial system is comprised of commercial banks - the majority of which are branches of foreign banks - credit unions, development banks, savings banks, mortgage and finance companies and insurance companies. The foreign banks were established originally to service the export sector and engage in traditional banking services. Locally incorporated or government controlled banks started up in the early 1970s, spurred by the philosophy that the operations of these banks would be more closely attuned to the national priorities than those of the foreign owned banks. The ECCB supervises the commercial banks, while the Supervisor of Insurance supervises insurance companies. The region is also moving to actively deepen its financial markets through encouraging the development of secondary markets for mortgages and government securities.

The mandate of the ECCB is to maintain the stability of the EC dollar – the Eastern Caribbean dollar is pegged at EC$2.70 to US$1 – and the integrity of the banking system to facilitate the balanced growth and development of member states. The ECCB has the sole right to issue currency, holds the common pool of foreign exchange reserves and conducts monetary policies. The ECCB acts as banker, fiscal agent and advisor to the member countries on monetary and financial matters. Under the currency board type arrangement, the ECCB has to ensure that up to 60.0 percent of the domestic currency it issues is backed by foreign currency. On the advice of the ECCB, the Minister of Finance, to whom the application for a banking licence is made, would either decline or issue a commercial banking licence in accordance with the Banking Act No. 7 of 1991. Monetary and credit policies are set by the Monetary Council of the ECCB, which is comprised of a minister from each of the member countries. To encourage savings, a floor on deposit rates exist.

The major tool of monetary policy is the reserve requirement of the commercial banks. Currently, this should be a cash reserve equivalent to 6 percent of the total deposit liabilities of the commercial bank. Individual countries also issue government securities, including bonds and treasury bills. With responsibility for the issuance of money vested in the central bank, there is more difficulty compared to other countries with an individual central bank to wantonly fuel the growth of money supply by printing money to cover large fiscal deficits. The moderating influence of the regional central bank heightens confidence in the region’s financial and macro-economic stability and contributed, in some measure, to some of the lowest and most stable lending rates and interest spreads in the CARICOM region. Up to the first half of 2002, the weighted average lending rate was 11.6 percent, while the average 3-month deposit rate was 3.8 per cent, resulting in an interest rate spread of 7.8 per cent, very close to that of Barbados and Bahamas.
Exchange control regulations are in place. Generally, authority to approve current account transactions up to US$92,592 has been delegated to authorised dealers. This limit does not apply to payment for legitimate imports. All outward payments exceeding US$92,592 for capital account transactions require the approval of the Ministry of Finance. Exchange control approval is required for all credit transaction.

**St. Lucia**

Currently six (6) commercial banks operate in St. Lucia. The largest in terms of assets and deposits is the Bank of St. Lucia, a previously wholly owned government enterprise, which was partially divested in 1999. The others are the First Caribbean International Bank (FCIB); The Royal Bank of Canada; The Bank of Nova Scotia; RBTT Bank Ltd.; and the St. Lucia Cooperative Bank Ltd. The latter is the other locally owned Bank, albeit a closely held public company with a limited number of private sector shareholders. The ECCB and the local Ministry of Finance strictly regulate entry into the commercial banking market. The RBTT, which began operations in St. Lucia in January 1993 as the Caribbean Banking Corporation, was the last commercial bank to be issued a licence. All the other banks have operated in the country for more than 20 years.

The average weighted interest rate at December 2002 was 12.5 percent, while the average weighted deposit rate was 3.8 percent, resulting in an interest rate spread of 8.7 percent.
**St. Vincent and the Grenadines**

There are six (6) on-shore commercial banks in St. Vincent. Three of them are fully locally owned and the others are public companies or wholly foreign owned. The National Commercial Bank is a State Enterprise; the First St. Vincent Bank is a local privately owned bank, so too is the St. Vincent Cooperative Bank. (Two families are behind the latter banks). The other banks are the Bank of Nova Scotia, the Republic Bank of Trinidad and Tobago, and FCIB, which controls about 40 percent of the market. Movement of customers among banks is limited because there is no credit bureau, and it thus becomes very costly to move accounts.

At December 2002, the average weighted lending rate was 11.4 percent while the average weighted deposit rate was 4.2 percent, resulting in an interest rate spread of 7.2 percent, one of the lowest in CARICOM.

**Trinidad and Tobago (T&T)**

There are six banks in Trinidad and Tobago (Table 3 above), of which the dominant banks are Republic and RBTT, both locally-owned. Total assets of commercial Trinidadian banks are estimated at US$5.9 billion in 2001, of which more than 60 percent is concentrated in RBTT and Republic Bank. In a population of 1.3 million, there are 1.5 million accounts in the banking system, according to one banker. The other locally owned bank is First Citizen Bank. CIBC, Bank of Nova Scotia and City Bank are North American while interestingly, a new and small Indian Bank, Intercommercial Bank, has recently opened, with two branches in the Centre and South of the country. Like Jamaica, the country offers deposit insurance. The central bank supervises the activities of the commercial banks and those of fifteen non-bank financial institutions. The Supervisor of Insurance monitors the activities of insurance companies.

The exchange rate regime is classified as a managed float with no pre-announced path for the exchange rate. The exchange rate however, fluctuates within a narrow band. The main objectives of monetary policy are to promote monetary, credit and exchange conditions favourable to economic growth and development, monetary and financial stability and public confidence. In the past, the central bank has used ceilings on credit growth, interest rates and moral suasion. With time, it has reduced its level of intervention and slowly shifted to more indirect policy tools, focusing now on interest rate targeting rather than money supply. Several monetary instruments are used to manage the growth of money supply and influence credit conditions. Despite the shift in focus to interest rates, the amount of cash reserves that the commercial banks should keep on hand at the central bank is set currently at 18.0 percent of their deposit liabilities. In addition, the banks are required to maintain a secondary reserve of 5 percent of their deposit liabilities in approved liquid assets such as treasury bills or other government securities. Of the six case studies, Trinidad and Tobago has the highest non-interest earning statutory cash reserve requirement. In May 2002, the central bank introduced the Repo rate as the key indicator for the monetary stance. The Repo rate is the
interest rate charged to commercial banks by the central bank for overnight borrowing. The central bank also offers a repurchase agreement at a reverse Repo rate that is 50 basis points below the Repo rate. Raising the Repo rate is a signal to increase interest rates and slow credit growth, whereas the reverse occurs when the Repo rate is lowered. The government also issues securities such as bonds and treasury bills. Banks are also required to provide deposit insurance, as a result of the collapse of some non-bank financial houses in the wake of the collapse of oil prices and the downturn in the economy in the late 1980s.

Trinidad is one of three CARICOM countries operating a stock exchange where cross border trading of shares from companies listed in their respective stock exchanges is permitted between residents of Barbados, Jamaica and Trinidad. Some controls on capital account transactions exist, most of which deal with acquisition of shares in local companies, local securities and real estate by non-residents.

Regionally, RBTT is giving Republic strong competition. Republic has branches in Guyana, Barbados, Cayman Islands, and Grenada while RBTT has branches in eleven jurisdictions, including Jamaica, St. Lucia, the Dutch islands and Suriname, and does mortgage securitization in Belize. Expansion into the region was prompted by the fact that demand for corporate credits waned with the slow down of the economy, linked to the depressed US economy, and as deposits accumulated in the banking system, there were less opportunities to provide loans. This penetration and consolidation across the region is giving the two Trinidad and Tobago banks some market leverage. However, the benefits to be reaped from expansion are not all rosy; RBTT’s after tax profits dropped 38 percent in 2002 as a result of the growing non-performing loan portfolio in Jamaica and the Netherlands Antilles, prompting a US$33 million increase in loan-loss provisioning in 2001.

There is no credit rating agency, but there are initiatives in place to set up a credit bureau or rating agency, since at present individual banks have little information about customers’ history. The proposed Credit Bureau will provide a global history of customers banking record, including hire purchase. At present, banks have arrangements for exchange of information for credit cards, but not for other debts. The proposed Credit Bureau will make the financial sector more transparent, and interest rates charged would depend on the level of risk posed by individual accounts. It will increase competition amongst banks because clients will be able to move more easily from one bank to another.

As of September 2002, the average weighted lending rate was 12.96 percent, while the average weighted deposit rate was 3.93 percent, leading to an interest rate spread of 9.04 percent.

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3.1.3 Current Dynamics in the Sector

Within the last year or so, there has been movement towards more competition in the banking sector in most of the countries studied. The prospect of increased competition, once the FTAA agreement is in place, has led to consolidation, technological updating and some jockeying for market share, though marginally so, because of the limits imposed by the small size of the market. The formation of FCIB and the expansion of Republic Bank of Trinidad and Tobago and RBTT into the region are responses to these emerging challenges. In St. Vincent, there was a complaint by one banker that the current trend towards merger and take-over of banks could lead to St. Vincent becoming appended to the Trinidad and Tobago and Barbados markets. However, he conceded that mergers will lead to more competition since banks will be able to deal with larger corporate clients, and provide instruments and products to grow in both local and foreign markets.

Indeed, many bankers in all the countries under study had the view that the sector is over-banked and that mergers and consolidations are needed to rationalize the sector and create more efficiency, which in turn, will lead to increased competition. The view was that indigenous banks need to look for foreign partners. The fear of take-over however, is causing banks to downsize as they try to become more efficient. In Belize, for instance, banks now have marketing and sales units. In response, bank staff in Belize is unionizing as they anticipate changes. In St. Lucia, banks are offering intense training for their staff in dealing with customers, with the aim that the first contact person must be able to service the customer.

In Belize, concern was expressed by some bankers over the new arrangement whereby RBTT is offering government securitization, but is not present in the market. They felt that players abroad have a distinct advantage, since they do not have overheads. There is also the
contradiction, in that international financiers are good because they bring in new funds, and Belize is starved for foreign currency, but that they can also be bad for the banking sector in that they can cherry-pick, taking the best business and leaving the great risks to domestic banks.

In St. Lucia, the NCB and St. Lucia Development Bank consolidated after they had undertaken a study to see how best to achieve the objective of becoming more effective and competitive. They found that they were offering the same services. They also found that their customers were loyal to national banks. However, in St. Vincent there was a view that people and corporate clients do not feel safe with the government bank, so that they borrow from NCB but put their savings in banks with international links. Most corporate clients do not have accounts with NCB, which rely mostly on government’s business.

Technological advances in the banking industry are causing a change in the way services are offered, but banks face a struggle to bring consumers along because of their lack of sophistication and unwillingness to use the new instruments which are being introduced throughout the region. In St. Lucia, for instance, the majority of customers are banana farmers who do not want ATM cards, who use the bank as a repository to deposit and withdraw, and insist upon coming into the bank to transact business on a face to face basis. Some 60-70 percent of the savings base is through put business. In St. Vincent, interviewees felt that there was a lack of awareness on how competition plays out in the market, and how to maximise these dynamics for the consumer’s benefit. It is an unsophisticated market in which some people may use ATM cards, but most do not use credit cards. At supermarkets for instance, a customer using a debit card can get a discount, but most customers use cash. In fact, in an effort to get customers to use credit cards, banks penalize them with a charge of EC$65.00 if the card is not used. Consumers complained that the time for payment of the bill on the credit card does not match the salary payment time. In all the countries surveyed, there were no consumer organisations, or very weak representation.

Local banks are still lagging behind foreign banks technologically in introducing new products. For instance, Bank of St. Lucia’s clients cannot use Scotia Bank’s ATM because they do not offer international debit cards as yet, but Scotia bank does, and their clients can use Bank of St. Lucia’s ATM. FCIB is also offering international debit cards. Nevertheless, in St. Lucia, a Caribbean Credit Card Association was formed consisting mainly of national banks and the Republic Bank of Trinidad and Tobago and RBTT.

The level of sophistication of banks in the region varies with those in the Bahamas and Trinidad and Tobago being more developed. Banks in both these countries have developed a high level of sophistication in dealing with the criminal element. In St. Lucia’s market by contrast, there are no Secrecy laws, Banker’s Association, or international transactions like in the Bahamas. E-commerce is not developed in the markets under study because of the lack of sophistication of the clientele.

While the markets are not fiercely competitive, there has been some movement towards competition over the last two years. In St. Lucia, SVG and Belize for instance, there has been strong competition on mortgage lending. In St. Lucia, the government-owned bank,
NCB, offered a rate of 7¾ percent to public servants on their mortgages and the other banks lost business. This forced them to bring down their rate and now they are offering 7½ to 8 percent across the board, not just to public servants. Bank of St. Lucia introduced a rate of 8¾ percent for new clients on the first $150,000 for developmental purposes and to generate employment. Old good customers were given a reduction on the mortgage rate over time. The other banks jumped on the bandwagon and offered 8¾ percent without a ceiling for refinancing. This led to a lot of refinancing but did not generate new business. Belizean banks are bringing down interest rates, with rates for business loans now comparable to that offered by the government’s Development Finance Corporation that had offered to refinance mortgages at 12 percent compared to 16 percent charged by commercial banks.

Another example of growing competition is the blurring of lines between who can conduct banking business and who can offer other financial services. RBTT is offering insurance, merchant banking and hire purchase. Insurance companies (Guardian Life and CLICO) are investing in housing and industry and the Unit Trust Corporation of Trinidad and Tobago is considering opening a bank. Courts and American Stores offer hire purchase and very manageable repayment arrangements for the low income group. Credit Unions are becoming very large, with assets in excess of TT$ 1bn. in Trinidad and Tobago (Hindu Credit Union and TECOU) and in Belize, one Credit Union offers banking services to its members.

In general, then, competition is emerging on mortgage rates, and corporate clients have some leverage to negotiate downwards the rates charged for business transactions, playing one bank against the others to bring down the rate. However, the bigger banks generally get the larger corporate clients, and in most countries, the government is the largest borrower. In St. Lucia, for instance, corporate business is not that large, with the accounts of the two largest businesses being US$500m and US$125m.

**Competition from Non-Traditional Sources**

Great concern was expressed by bankers about the activities of credit unions in Belize. There was concern over the fact that credit unions were not subjected to prudential supervision, not operated by bankers and yet were competing with banks. Interviewees questioned whether the level of activities had outgrown the leaders of the credit unions, since the latter are not designed to conduct banking business. Credit Unions are not taxable, but banks have to pay taxes. This preference was granted in colonial times, and remains so. One banker expressed the view that Credit Unions, with about 15 percent of market share, were the financial intermediaries most vulnerable to an adverse financial shock because of the lack of prudential or capital reserve requirement. Interviewees from banks alleged that corporations are borrowing and hiding money in credit unions because banks require that they must declare the source of money for transactions involving US$10,000 and up. Credit Unions do not require this. In St. Lucia and Trinidad and Tobago, Bankers expressed similar concerns, while in St. Lucia the view was that they are poorly managed and operate on favours.
In response to the issue of competition with the banks, the largest credit union in Belize, the Holy Redeemer Credit Union (HRCU), commented that they were not competing with banks, since only members have access to the banking services they offer. They claimed that while they are allowed to charge up to 18 percent on loans, they never go above 12 percent, and that the effective lending rate is 8½ to 9 percent because interest is charged on the reducing balance and members are offered a 5 percent to 10 percent rebate on interest paid. They offer 6 percent on deposits. In their view, their business is straightforward: they receive savings from members, lend to each other for goods and productive purposes and share the profits. At the end of February 2003, the membership was 34,857 of a total clientele of some 125,000 in Belize. Of this, 9,979 are under 18 and can only save. HRCU complained that they are treated badly by banks. BZ$9 million was deposited with a bank, and it was put into a checking account with no interest. Alliance Bank seems to be developing a better working relationship with HRCU.

There is a vibrant credit union movement in SVG. They control a total in excess of EC$150 million, which is significant in that context. There are nine credit unions with a market share of 20-25 percent and a membership of 34,000. They lend mostly for consumer goods, but there is some lending for productive purposes and some loans for tertiary education in the U.S. They have recently started providing mortgage financing providing 100 percent financing at 8 percent interest. This has caused FCIB to reduce their mortgage lending rate to 8 percent with the right to change the rate, and NCB is offering 9 percent with 7½ percent to government employees. Previously there was a spread of 9-11 percent, providing 90 percent coverage and requiring 10 percent down-payment. The Credit Unions are not very proactive, though, usually reacting to market signals and doing little research. The Building and Loan Association (BLA) is another local financial cooperative body, which is currently in the process of becoming a full fledged banking institution. The BLA controls a significant percentage of the private residence mortgage market. The NCB is the leader in the market; it is the largest bank in the country (Most of government’s financial business including NIS passes through the NCB).

Banks are also facing competition from Courts Ltd. throughout the region and in Trinidad and Tobago, from Standards Ltd, with their hire purchase arrangements for appliances. For instance, in SVG, Nova Scotia was a strong provider of loans for home appliance purchases, but has now lost that market to Courts. However, most banks do not lend at that level, and therefore do not see the hire purchase instrument as serious competition. The SVG Development bank (SVGDB) is the only development bank. It also handles mortgages and is becoming a major player in this field.

3.1.4 Complaints about Banks’ Conduct and Banks’ Defense

Collusion or Price Leadership?

There is a widespread perception among consumers and business that banks collude. Indeed, even in the banking community, there is concern. A consultant to a Development Bank insisted that there are cartels fixing prices in the financial sector in every CARICOM
country. Their geographic spread is understandable, since the same banks operate in most countries. In his view, the size of the market is too small, and existing players dominate the financial sector. The biggest player in each market knows the tolerance level for risk, and is unwilling to extend its market share beyond a certain level of risk. The dominant player fixes the price to suit that purpose and others do not get involved in a price war with a leader who does not want more market share. For example, FCIB would not want to be exposed to risk beyond about 40 percent of the market. This interviewee argued that the government cannot generate sustained competition through its bank since it does not lead in the market, and does not attract savings. In fact, the government’s banks have the lowest quality of risk and the highest lending. Larger economies are more diversified and offer more opportunities for competition.

Respondents on behalf of the Banks denied that there was collusion amongst them. However, local bankers in St. Lucia claimed that the international banks have been exchanging information on charges for services over the last 50 years. In the Bahamas, the international bankers agreed that they fixed prices years ago, but that they do not do so anymore. They claim that the only agreements made now are for clearing purposes and for setting the prime interest rate through consultation between the Association of Clearing Banks and the Governor of the Central Bank. The bankers claimed that there are often attempts at competition on interest rates and service charges, but that basically banks check around and try to be consistent in the rate of their charges.

Nonetheless, it is interesting that both small and large banks have the same rate for charges when their costs must be very different, given economies of scale. Small banks need a larger spread than the larger banks. Apparently the spread set by the large banks, or leader, is big enough that small banks can piggyback onto this spread.

This follow-the-leader tactic was offered as the main explanation in all the interviews across countries. In Belize for instance, there is no Bankers’ Association. However, a Bankers’ meeting chaired by the Governor of the Central Bank is held as the need warrants. In these small economies, it is inevitable that bankers come into contact with each other on a daily basis, formally and informally. In St. Lucia, there is a Bankers’ Association, but bankers claim that they share views on issues but do not fix prices. Indeed, they claimed that are very guarded with each other.

Trinidad and Tobago’s bankers claimed that the Bankers’ Association may discuss the general market environment in which they are operating and suggest the trend needed, but does not determine any numbers. For example, Scotia Bank recently dropped its interest rate after one such discussion and took the other banks by surprise, since it usually takes time to put things in place by building the cut in rates into the whole profitability picture. The others had to follow suit. However, the treasury division of banks usually has a good idea of where rates are going.

According to some bankers in Trinidad and Tobago and Belize, pricing has little to do with its cost; rather it has to do with market position. In their view, most services are offered at a loss, contrary to the perception held by the public. Price similarity is due to the ‘follow
the leader’ tactic, not cartel activity. Bankers try to meet the best price and this drives the price towards equilibrium.

Given the smallness of the economy and the limited numbers of commercial banks, banks’ actions are highly and quickly visible across the market. With conditions that so readily facilitate price leadership, it would be very difficult to establish unambiguously that collusion is occurring rather than price leadership.

**Oligopolistic or Cost Justified Spreads?**

Throughout the interviews in all the countries under study, people complained about the wide spread (described as extortionist) between deposit and loan rates.

In Jamaica, the private sector complained that the cost of money is excessively high, and is adversely affecting the manufacturers and private sector since they cannot afford loans to invest in upgrading plant and facilities and other necessary investments. They complained that a major problem is that the government is borrowing most of the available money - about 60 percent of the loans market, and that this leaves insufficient money to lend to the private sector and consumers. More liquidity is needed to push rates down. The Financial Services Regulator agreed that government was borrowing heavily and crowding out the private sector. Consumers and small businesses are also hurt by the high rates, which create barriers to entry into business and is contributing to unemployment. Consumers in Jamaica wanted the FTC to intervene to make the banks provide information to the public rationalizing the spread. The FTC did not intervene, however, since this comes under the purview of the Central Bank.

A superficial comparison of interest rate spreads with selected non-CARICOM countries was done to ascertain if the spreads within the case study countries were unusually large. (See Table 16, Table 17 and Figure 7 below) Although the specific type of lending rate and deposit rate varied across the non-CARICOM countries – from weighted average measures to prime rates - the interest rate spreads still provided a useful context within which to gauge the CARICOM spreads.
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<td>8.2</td>
<td>7.8</td>
<td>Managed float</td>
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<tr>
<td>Indonesia</td>
<td>19.0</td>
<td>15.5</td>
<td>3.5</td>
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</tr>
<tr>
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<td>6.4</td>
<td>3.2</td>
<td>3.2</td>
<td>Pegged to US$</td>
</tr>
<tr>
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<td>4.6</td>
<td>4.5</td>
<td>Managed float</td>
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<tr>
<td>Sri Lanka</td>
<td>13.3</td>
<td>9.4</td>
<td>3.9</td>
<td>Managed float</td>
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<tr>
<td>Singapore</td>
<td>5.4</td>
<td>0.9</td>
<td>4.5</td>
<td>Floating</td>
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<tr>
<td>Thailand</td>
<td>6.9</td>
<td>2.0</td>
<td>4.9</td>
<td>Managed float</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>26.4</td>
<td>11.5</td>
<td>15.0</td>
<td>Managed float</td>
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<tr>
<td>Panama</td>
<td>11.0</td>
<td>6.8</td>
<td>4.1</td>
<td>Unitary with US</td>
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<tr>
<td>Nicaragua</td>
<td>23.2</td>
<td>7.3</td>
<td>15.9</td>
<td>Pegged to US</td>
</tr>
<tr>
<td>El Salvador</td>
<td>14.0</td>
<td>9.3</td>
<td>4.7</td>
<td>Pegged to US</td>
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<tr>
<td>Honduras</td>
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<td>Managed float</td>
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<td>Guatemala</td>
<td>16.9</td>
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<td>Managed float</td>
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<tr>
<td>Mexico</td>
<td>9.4</td>
<td>2.9</td>
<td>6.5</td>
<td>Managed float</td>
</tr>
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</table>

**Source:** International Financial Statistics, May 2003

*The type of interest rate measured across the countries varied, including rates such as weighted average rates, prime lending rates, rates on 1, 3 or 6 month deposits, business overdraft and so on.*
Figure 7: Interest Rate Spreads (Lending Rate-Deposit Rate) on National Loans - 2002
# Table 17: Comparative Indicators of Commercial Banks’ Financial Performance - 2002

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<tr>
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<th>Belize</th>
<th>Jamaica</th>
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<th>Canada</th>
<th>UK*</th>
<th>USA</th>
<th>Nicaragua</th>
<th>Private domestic owned</th>
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<tbody>
<tr>
<td><strong>ALB - Majority Local owned</strong></td>
<td>3.89%</td>
<td>6.43%</td>
<td>8.49%</td>
<td>9%</td>
<td>11.28%</td>
<td>11.40%</td>
<td>6.50%</td>
<td>7.50%</td>
<td>1.60%</td>
<td>4.00%</td>
<td>3.00%</td>
<td>15.90%</td>
<td>4.1%*</td>
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<tr>
<td><strong>ATB - Majority Foreign Owned</strong></td>
<td>3.89%</td>
<td>6.43%</td>
<td>8.49%</td>
<td>9%</td>
<td>11.28%</td>
<td>11.40%</td>
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<td>4.00%</td>
<td>3.00%</td>
<td>15.90%</td>
<td>4.1%*</td>
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<tr>
<td><strong>BB - Foreign Owned</strong></td>
<td>3.89%</td>
<td>6.43%</td>
<td>8.49%</td>
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<td>11.28%</td>
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<td><strong>BNS - Foreign Owned</strong></td>
<td>3.89%</td>
<td>6.43%</td>
<td>8.49%</td>
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<td>11.28%</td>
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<tr>
<td><strong>FCIB - Foreign Owned</strong></td>
<td>3.89%</td>
<td>6.43%</td>
<td>8.49%</td>
<td>9%</td>
<td>11.28%</td>
<td>11.40%</td>
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<td>4.00%</td>
<td>3.00%</td>
<td>15.90%</td>
<td>4.1%*</td>
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<tr>
<td><strong>All banks</strong></td>
<td>3.89%</td>
<td>6.43%</td>
<td>8.49%</td>
<td>9%</td>
<td>11.28%</td>
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<td><strong>All Banks²</strong></td>
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<td><strong>All Banks²</strong></td>
<td>3.89%</td>
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<td>4.1%*</td>
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<td><strong>1= Data for 2001, except interest rate spreads which are for 2002</strong></td>
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<td><strong>2 = Annualised for 2002</strong></td>
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<td><strong>3 = data for 1997/98</strong></td>
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<td><strong>4 = Costa Rica and Panama’s interest rate spread is for the country, not each bank type.</strong></td>
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<td><strong>5 = does not include assigned capital for branches of foreign banks</strong></td>
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<td><strong>6 = Information on statutory reserves was only collated for CARICOM countries and the Dutch West Indies.</strong></td>
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### Interest Rate Spread

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<th>Belize</th>
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<th>UK*</th>
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<th>Nicaragua</th>
<th>Private domestic owned</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Bad loans (net of specific reserves/Total loans)</strong></td>
<td>2.21%</td>
<td>2.81%</td>
<td>2.33%</td>
<td>2.88%</td>
<td>2.49%</td>
<td>3.77%</td>
<td>2.29%</td>
<td>15.27%</td>
<td>11.27%</td>
<td>5.90%</td>
<td>3.00%</td>
<td>0.94%</td>
<td>2.74%</td>
</tr>
<tr>
<td><strong>Non-interest expense/net operating income</strong></td>
<td>2.13%</td>
<td>4.05%</td>
<td>0.48%</td>
<td>0.94%</td>
<td>1.28%</td>
<td>2.94%</td>
<td>1.44%</td>
<td>1.37%</td>
<td>2.17%</td>
<td>4.23%</td>
<td>5.15%</td>
<td>2.77%</td>
<td>4.18%</td>
</tr>
<tr>
<td><strong>Net earnings/assets</strong></td>
<td>0.79%</td>
<td>1.56%</td>
<td>6.86%</td>
<td>4.63%</td>
<td>3.63%</td>
<td>2.80%</td>
<td>2.43%</td>
<td>2.55%</td>
<td>0.88%</td>
<td>1.26%</td>
<td>1.11%</td>
<td>1.10%</td>
<td>0.58%</td>
</tr>
<tr>
<td><strong>Net earning/equity</strong></td>
<td>8.13%</td>
<td>14.09%</td>
<td>69.53%</td>
<td>48.15%</td>
<td>26.93%</td>
<td>26.34%</td>
<td>20.96%</td>
<td>21.60%</td>
<td>24.94%</td>
<td>50.27%</td>
<td>21.89%</td>
<td>23.20%</td>
<td>12.43%</td>
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### Asset Quality

### Efficiency

### Profitability

### Capital Adequacy

### Liquidity

### Statutory reserves

### Secondary reserves

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n.a. = not available
While this comparison of interest rate spreads cannot establish if the banks in the CARICOM countries are extracting oligopolistic spreads or simply have spreads that reflect higher risks, lack of economies of scale or inefficient management, several observations can be made. Spreads in the case study countries were at least double that in developed countries such as the US and Canada. Within CARICOM, the OECS countries, with a regional central bank, had interest spreads that were among the lowest, while those with a floating exchange rate, such as Jamaica, tended to have a larger spread, some indication that the exchange rate regime could be contributing to higher risks and costs.

Bankers offered several explanations for the high interest and service charges and the wide interest rate spread. One major factor was the high level of market risk. In the Bahamas, some $91 million was due (as of May 2001) from some 19,000 accounts. This is 19 percent of banks’ customers. In St. Lucia, in addition to the high delinquency rate, bankers face the additional problem of barriers to quick recourse to recovery of funds, and this increases the security requirements for a loan. It takes up to 5-6 years to re-coup monies because of a civil law code that does not allow banks to take quick action. The bank has to file for a judgement, which can take up to two years, and then apply for summons of sale for the property - another year. To be a registered bidder, you have to place a 20 percent of judgement value with the Sheriff. If the bank has a customer who refuses to cooperate, it is in a difficult position. This impediment puts all investments at risk. Other territories have mortgage right of sale, which empowers the bank to dispose of property in settlement at a fair market value. In Jamaica, bankers have to protect against inflation, since depreciation of currency has a bearing on cost. Further, it is government’s policy to curb capital flight by having a benchmark of 10 percent interest rate on deposits.

High statutory reserve requirements mandated by law are a cost to the banks since these funds either do not earn any interest or earn interest that are much lower than what they could make from regular loans to their customers. In Trinidad and Tobago for example, the cash reserve requirement is 18 percent, while Jamaica’s is 9.0 percent. Costs are also affected by the need for deposit insurance in countries such as Trinidad and Tobago and Jamaica. Banks therefore claim that they have to make up for this by charging a higher interest rate. Republic Bank in Trinidad and Tobago argued that if the net interest spread is calculated in Barbados, Grenada and other OECS countries, it would be found that banks in those countries make more profits because of the lower reserve requirement (6 percent). Central Bank’s high reserve requirement is aimed at influencing liquidity, interest rates and, hence, domestic credit in order to avoid too much liquidity which would lead to consumer demand and pressure on the exchange rate. In large economies, increased consumer demand usually stimulates the productive sector. In these small open economies, it increases imports. It is interesting that in the three countries where the spread is highest (Trinidad and Tobago, Jamaica and Belize), there is a common concern about managing foreign reserves very carefully. In the case of Jamaica and Trinidad and Tobago, there are no exchange controls, and the exchange rate floats. For Jamaica, this floating exchange rate has been volatile. In the case of Belize, there is a severe shortage of foreign currency, so much so that banks compete for clients who are
earners of foreign currency. The high reserve requirement, linked to the need to control demand for foreign currency, impacts on the spread, making it wider in order to re-coup the profits that should have been earned on the money frozen in reserve. The Bahamas, St. Lucia and SVG all have fixed exchange rates, exchange control and less statutory reserve requirement.

It is noteworthy that interest spreads in most other developing countries, with the exception of the ASEAN countries, are even higher than in CARICOM (see Table 16). The ASEAN economies are different, more dynamic and financially sound than most developing countries. In the case of Panama, its economy was (is) closely linked to the US economy. The country that is interesting is El Salvador, with a spread of only 4.7. The dollarisation of El Salvador in 2001 has been a major influence in lowering interest rates and aligning them closer to rates of the United States.

Another cost increasing factor is the systems that banks have had to put in place because of anti-terrorism/money laundering guidelines required by the OECD and, more recently, the US Patriot Act. More security must be provided and deals have to be turned away. If guidelines are not followed, the country could be blacklisted and hurt by U.S. action against it.

Another explanation for the large spreads could be poor management, especially relating to cost controls. Naturally, most banks did not make any comment on this aspect of their performance. The Bank of Jamaica, in assessing the reasons for the large spreads in Jamaica, did indicate that a large portion of the spread went towards meeting persistently high overhead costs, indicating clearly that cost controls could reduce the spread. Bahamian bankers also commented on the need to downsize the labour force, but their inability to do so because of the socio-economic implications.

One banker in Trinidad and Tobago was quite frank. In his view, the wide spread is designed to increase profitability, and this can be done because banks dominate the financial sector. There are no other institutions or instruments to compete with them, such as bonds. On the demand side, consumers prefer debt financing and use large overdrafts. There is an unsophisticated culture amongst investors, not enough information on other instruments, and lack of confidence in the stock market. This gives banks muscle within the financial sector. On the supply side, equity financing require more stringent reporting and since most businesses are family owned, there is a reluctance to use this instrument since they do not want to reveal information and to give up control. In sum, business customers understand debt financing, but not equity and bond financing. There are no more than ten companies floating bonds in the CARICOM market. What is needed to introduce more competition in the financial sector is to develop a capital market, other instruments for investment and educate consumers.

The financial performance of commercial banks in the case study countries was compared with selected developed and developing countries to ascertain if the ‘excessive’ interest rate spreads could be associated with inefficient management or abnormal profits (Table 17 above). Operating costs were highest for the two smallest
banks in Belize, St. Lucia and St. Vincent, indicating that economies of scale are lower in smaller economies. Asset quality was lower and bad loan exposure was generally higher than in the developed countries, with the ratios in St. Lucia and St. Vincent being very high, underscoring, in the case of St. Lucia, the costliness of the recovery procedures for loan defaults. Overall profitability, as measured by return on assets in St. Lucia and St. Vincent, was the lowest among the case study countries, although they still compared reasonably well with the developed countries. It is evident, however, that higher operating costs and bad debt exposure have contributed to trimming down the gains from the wide interest rate spread to profit levels that are closer to that of the larger, more competitive markets. In Belize, the three largest banks are highly cost efficient, with an asset quality comparable with that of the USA. Their large interest rate spreads have clearly facilitated profitability that are at least double that of the developed countries. The new entrant, Alliance Bank, with an interest rate spread of 3.89 percent was still profitable, indicating that scope existed for a reduction in the spread without harming the viabilities of the banks. The Bahamian banking sector was also highly profitable with a return on asset of 2.55 percent. Most of the non-CARICOM countries had returns on assets below 2 percent. A question, then, is do banks in CARICOM need the higher profit margins to hedge against risk, and do their profits decline significantly with volatility in the economy? Could this then be the rationale for higher profits, or are they simply gouging the consumer. This calls for further analysis.

It is interesting to note that the findings in this study are similar to a study examining the high interest rate spreads in Latin America which concluded that the following contributed to raising spreads:

- high operating costs
- high levels of non-performing loans
- lack of prudent lending behaviour in some cases
- high reserve requirements
- uncertainty in the macro-economic environment facing banks
- to hedge against inflation (Brock 2000:34).

**Consumer Misinformation**

In addition to the two major complaints, banks were accused of misleading advertising because they do not reveal the effective rate in their advertisements. It was also felt that banks do not disclose sufficient information. Since banks are publicly quoted companies, they should be required to disclose their accounts to the public. While this is done, there is a discrepancy between local and foreign banks, in that local banks publish their accounts for the business in that economy, while foreign banks provide aggregate accounts for all their subsidiaries, thus masking what happens in the local economy. There were also complaints about the heavy charges involved in transferring an account from one bank to another. The customer has to pay all the fees doubly.

**Relationship with Law Firms and Insurance Companies**
Consumers in the Bahamas complained that they are directed to specific lawyers and cannot exercise choice on which law firm to use. The Bar Association also complained about this exclusive dealing with preferred law companies, claiming that the long established, “white” companies got all the big business. Bankers in the Bahamas responded that they use certain criteria when dealing with law firms, such as having professional indemnity insurance and a good professional reputation for delivering good work on time. They claimed that the practice of specifying the law firm to clients is now changing.

This practice was found throughout the territories studied. Indeed, the response in all countries studied was that banks have historically dealt with specific law firms that are chosen because of good reputation and high quality of work. A problem they all referred to was the limited number of law firms that exists in these countries. Even where banks do not direct their customers to a particular law firm, and the client goes to their own lawyer, the bank still gets their lawyers to vet the documents, so the client pays twice. In the view of some bankers, this is not collusion, but a matter of trust and relationship in which the banker has confidence in an industry which is knowledge-based. Some banks have their own in-house lawyer and the Bank of St. Lucia owns a legal company that does all its work. It is now forming an insurance company dealing with life and fire for its mortgage customers who also have the option to insure elsewhere, unless the bank is providing a loan to meet the payments. Then they must insure with the bank.

In Trinidad and Tobago, banks direct their clients to specific law firms, justifying this by the need to ensure that the title is searched properly, and documents are drawn up properly. This reduces the risk for the bank. They argue that each mortgage may involve special deals which require documents to be tailored to each client’s needs, and having a small panel of lawyers would provide economies of scale for them to devote the time and attention needed. Indeed, Republic Bank has one of its panel lawyers on the Board of Directors, and while this may be seen as a conflict of interest, in their view, he was put there to protect the bank from getting into trouble.

3.1.5 Market Failure and Development Dimension

Prudential regulations recently imposed have made it even more difficult for small entrepreneurs to access bank loans, because they do not have the collateral and wherewithal to meet traditional bank’s requirements. As a result, innovation and creativity are stifled. In Belize, for instance, to address this problem, the government created a Small Farmer’s Bank which was situated in the development bank, the Development Finance Cooperation (DFC). The latter is owned by the Government and was set up in 1973. The DFC services the non-traditional sectors in which banks are reluctant to assume risk, such as agriculture, tourism, fisheries, manufacturing and housing development, and assists clients with developing a business plan, putting together the proposal and taking it through the financial institution. The DFC gets its cash at softer terms, and can therefore offer better rates to its customers. It began offering
loans for housing at 12 percent and this eventually forced all other banks to reduce their rates from 16 to 12 percent. However, there are rumours that the lending at DFC is politically affiliated.

The Small Farmers Bank was taken out of the DFC and was re-opened in 1998. It lends to small entrepreneurs, whether in farming or not. Clients include farmers, side street vendors, fishermen, and small downstream operators in the tourism sector. It lends on a smaller scale than the DFC, with loans ranging from B$750 to B$50,000. Collateral is not excessive. Generally, chattel collateral: car, truck, furniture, etc., is accepted. If a loan is over $7,000, then a guarantor of good standing is required. For bigger loans, the bank may require titled property. If leased, then they would value the property on the basis of investment on the leased property, for example, if land, how much is it worked. If the land is not worked, then it is deemed to be of lesser value. Repayment time is generally five years, but if it is a larger loan, then special conditions may apply. An applicant for a loan must pay up front $20 per $1,000 loan, which becomes shares in the bank. When the SFB is profitable, it would pay a dividend. There is a 2:1 ratio of approvals, as there is much weeding out of bad applicants who are lured by the perception of easy money. The Belize Enterprise for Sustained Technology, an NGO, lends between $100 and $2,000 to small entrepreneurs.

St. Vincent has a development bank, National Development Bank (NDB), which is owned by government. Its purpose is similar to that of the DFC in Belize as it targets those clients that are excluded from the system because of the exclusionary policies of traditional banks. It is interesting that the traditional banks are averse to lending for agricultural projects, when the economy is based largely on agriculture. Payments in agricultural and tourism sectors are seasonal, and while traditional banks do not cater to this cash flow problem, the NDB structures repayments in line with cash flows.

In T&T, there is a Small Business Development Fund, administered by the Small Business Development Unit. Republic Bank contributes some 50-60 percent of all lending coming out of SBDF. In the view of Republic Bank, the structure and approach of small businesses is poor. A culture of business needs to be developed and this bank tries to do this through their youth link programme. Republic Bank also allows for flexible payments in seasonal sectors; tourism and agriculture.

### 3.1.6 Issues Specific to Smaller Economies

1. Small economies generally do not have internationally convertible currency, and so they must earn foreign currency from their exports or remittances from their diaspora in order to finance imports. In these economies, most capital and consumer goods are imported. The stability of its currency and its import capability therefore rests on the level and sustainability of healthy foreign reserves.
   a. In Belize, exchange control requirements are in place to maintain stability in capital flows and so protect the fixed exchange rate. The export sector is small, and foreign currency is very scarce. The issue of access to foreign
currency dominates the banking sector. Banks need clients who earn foreign currency. Foreign banks generate more confidence with big clients, so they have greater access to foreign currency accounts. In the past, the banks sold surplus foreign currency to the Central Bank which then re-sold it as needed. Now, the banks cannot keep up with the demand for foreign currency and have become net buyers of foreign currency from the Central Bank.

b. The private sector complained that government was using the foreign reserves to service debt, and the loans were used for capital projects which do not generate foreign currency income. The securitization of mortgages by DFC requires repayments in foreign currency to RBTT, but this is not reflected in the external debt figures. It is speculated that the outflow of foreign currency is higher than reported.

c. Recently, the law was amended to allow off-shore banks to lend to firms in the Export Processing Zone and Commercial Free Zones, and this was a blow to the local banks, as it further reduced access to foreign currency accounts. Hard currency is committed in loan repayments even before it comes into the country. Government is the largest user of foreign currency, financing infrastructure projects. There is a view that government must stop this expansionary policy, even though this will slow down the economy.

d. Claims were made that a substantial portion of foreign currency does not pass through the banking system. One banker estimated that his bank has experienced a drop of about 10 percent in its inflows of foreign currency since the Cambio system was legitimized. The overall statistics for the banking sector, however, do not provide any clear indication that this is so. In fact, since the Cambios have been legalised, they allege that their purchases of foreign currency have also dropped. There was a view that Cambios record only a fraction of what they buy. The rest goes under the table.

e. Interestingly, while there is a dearth of foreign currency, there is no reduction in imports, which may indicate the existence of an underground market. There is a strong suspicion that the Cambios may be selling at black market rates and not at the required official rate. The black market rate falls somewhere between B$2.15-2.25 to US$1, while the official rate is B$2 to US$1. There is a widespread perception in Belize that the East Indian businesses dominate the underground foreign currency market.

2. A complaint heard in many countries is that banks have limited opportunities to invest, given the smallness of the economies and restrictions on investing abroad or lack of foreign exchange to invest abroad.

3. Costs are higher in small economies where the client base is small and economies of scale are not present. This is further exacerbated in physically larger countries
like Belize (and Guyana and Suriname) where the small population is spread over a wide area. It increases cost tremendously to provide services in remote areas, such as ATM machines, since the equipment and infrastructure are underutilized. This adds to the cost of doing business. Even in the small island states, despite the greater density of population, economies of scale cannot be achieved and costs are higher than in larger economies.

4. In small economies, there is a greater propensity to conduct banking business in a subjective manner, with access to loans depending on who you know, and with links between the business sector and politicians being inevitable. For instance, it was alleged that Alliance Bank in Belize, the new entrant, has strong political ties, strong support and influence. Political interference is much more recognizable in small economies. It becomes common knowledge. Interviewees claimed that political influence in awarding of contracts influences the loan policy of banks since the client’s ability to get contracts depends on which side of the political fence he (she) is on, and this determines whether a loan can be repaid. Decisions tend to be made on personal relationships rather than on a professional basis because of the smallness of the economy and accompanying intensity of personal relationships. As such, loans are granted more easily to family and friends, and sometimes these persons are not credit worthy.

5. In small economies, banks need to have provisioning for bad debt because they operate in vulnerable economies, that is, economies susceptible to shocks emanating from external sources which have widespread and disastrous impacts. Such was the case with most Caribbean economies in the aftermath of September 11 and the decline in tourism, and the drastic shrinkage of the banana industry in the Windward Islands with the withdrawal of the preferential EU market. While the tourism industry is dominated by foreign capital, local downstream operators are adversely affected when there is a downturn. Banks operate with the knowledge that debts may not be repaid. Even in Trinidad and Tobago, there were many defaults on debts in the aftermath of the collapse of oil prices in 1986. These external factors can impact on banks very negatively and they have to be factored into the mix of provisioning for bad or doubtful debt and they must ask for greater collateral. Vulnerability extends to the fluctuations in foreign exchange rates. In Jamaica, for instance, between March 3 and May 16, 2003, the cost of the US$ to the Jamaican dollar went from US$1 = J$53.83 to US$1 = J$ 67.21. It was only after the intervention by the Prime Minister, addressing the nation on the financial sector situation, that there begun a recovery of the value of the Jamaican dollar. The significance of this is the fact that inputs to manufacturing are imported, and so a devaluation has significant negative effects on business cost. This is another aspect of vulnerability in the economy and by extension, the banking sector.

6. In the Bahamas, many complaints were heard about the poor performance of banks and excessive spread in bank’s rates. The performance and rates were compared unfavourably to those in the Canadian and US markets, and complaints were heard about the lack of internet banking and automatic deposit system for paying
employees. Why then, is there not price competition in this product market? It was agreed that there is a lot of inefficiency in the system - the fixed cost is very high and this drives the spread margin. It was also agreed that the workforce is not very efficient and productivity is not high. Bankers claimed that legal fees and stamp duty contributed in large measure to the high charges on mortgage conveyance. Legal fees are set at 2 ½ percent (Bahamas Bar Scale) while stamp duty is based on a sliding scale up to 10 percent. This, in their view, partly explained the high cost.

The solution in a large dynamic market is to downsize and create greater efficiency through training and introduction of new technologies. However, it was argued that in a small economy like the Bahamas, there is very little flexibility in scope for restructuring. Introduction of competition in the banking sector would lead to structural changes in the sector, the major one being a sizeable increase in unemployment.

The financial sector contributes 15 percent to GDP and provides the white collar jobs in the economy. Market driven rates would lead to unemployment, lower salary rates, less service. A view was that in small economies, the options available to deploy resources are very limited. As such, the Northern model just would not work. The interviewee argued that with such restructuring, wealth could be transferred from the depositor to the borrower. It was not envisaged that the banks could pay for the reduction in the spread as this could only happen with downsizing, with all the accompanying pain. In the view of the interviewee, people would prefer to pay higher prices than have twenty years or more of pain, only to find that the new development model does not work. Apart from tourism and off-shore banking, the country has no other competitive advantage, no other resources, and the labour force is not highly skilled. One solution proffered is to consolidate the banks with the more efficient getting bigger and the less efficient being weeded out. In fact, it was suggested that controlling mergers amongst banks in this context would be inadvisable.

Further, it was argued that Bahamians are less sensitive to the rate as to the availability of credit. Bahamians like to spend or are used to it, and their concern is access to credit and how much they can get. Indeed, in the Report of the Royal Commission to Review the Hawks Bill Creek Agreement (1970), it was suggested that it was inevitable that the local population’s aspirations to material possessions would be influenced by the ostentatious display of wealth by the wealthy foreign residents. Moreover, government’s revenues are largely derived from customs duties and a withholding of credit to the Bahamians could impact negatively on government’s income. Indeed, personal loans represented 62 percent of total sectoral distribution of credit in the fiscal year 2000-2001. Without a credit bureau, it is not easy to switch banks. Hence, the banks do not compete for each other’s clients. There seems to be some resistance from consumers to having a credit bureau because it could become more difficult for people to access credit, and the product may be priced differently, based on credit rating. Indeed, the

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delinquency ratio for loans is very high, and this pushes up the margins. It was
revealed that on the Past Due Accounts, some US$91 million was past due from
some 19,000 accounts in May 2003. It was thus argued that the US model cannot be
used.

Another reason why banks in the Bahamas concentrate so heavily on consumer
lending is that there is excessive liquidity in the system. As was seen above, Exchange
Control Regulations restrict the conditions under which financial institutions are allowed
to invest. The bankers argued that this was a small market with large deposits and limited
scope for investment. Foreign investors are not allowed to borrow on the local market for
capital expenditure, and local registered companies cannot invest abroad. This affects the
banks’ ability to get rid of liquidity. Consumer lending is therefore as important to the
bankers as it is to the government. There are therefore issues specific to small economies
that must be taken into account when evaluating the solutions that could be posed for
these economies.

### 3.2 Tourism

#### 3.2.1 Overview

The tourism industry is the leading economic sector in the Commonwealth
Caribbean and is certainly an area of tremendous economic significance in the six
countries under study. While there are varying sub-sector emphases in the various
countries, the major categories of tourists are leisure visitors (recreation, holiday,
shopping, sporting and cultural events, visiting family and friends); business travellers
(meetings & conferences, missions, paid study & research); cruise passengers;
excursionists (same-day visitors) and yacht visitors.

According to the World Tourism Organization (WTO), international tourist arrivals
jumped from a total of 69 million in 1960 to 160 million in 1970, first peaking at 696.7
million in 2000, declined slightly by about 1 percent in 2001, and defied all expectations
by actually increasing by 3.1 percent to reach almost 715 million in 2002, in spite of the
events of September 11th, 2001 and the parallel world economic decline.

For the small Caribbean countries under study, the significance of tourism is
strengthened by the fact that in most destinations the total number of annual visitors
exceeds the resident population (in some instances by as much as five (5) times!!) and
therefore effectively increases their market size and presents opportunities for added sales
of goods and services. However, there are little backward linkages to the agricultural
sector for provision of food to the hotels, except in Belize.

The ownership of the sector is, however, largely foreign based, particular regarding
hotels, airlines and other large tourism establishments. Thus, a number of competition
policy issues, not all necessarily unique to small destinations, are brought to the fore.
3.2.2 Structure of Sector and Contribution to Economic Growth

Tourism is a major sector in all the economies under study except Trinidad, but Tobago has a growing tourism industry. Tourism accounts for about 40 per cent of total economic output in the Bahamas and employs about 50 percent of the Bahamian labour force. More than 3.5 million visitors spend an estimated US $1.45 billion annually. There are 66 hotels, motels, and guesthouses in New Providence, 33 in Grand Bahama, and 144 in the Family Islands. Foreign direct investors control the hotel industry. The tourism sector generates downstream services such as restaurants and recreational tours and cruises. In New Providence, there are 258 restaurants and in Grand Bahamas, 144, while there are 160 recreational tours and cruises in New Providence and 7 in Grand Bahama. The large restaurants are also foreign owned, particularly the ones that are within hotels. One hotel alone, Atlantis, on Paradise Island, has over 40 restaurants. The ground transport sector is an important one with taxis, tour operators, and water taxis providing the main transport for tourists. This sector is reserved for Bahamians only, and these service activities all generate employment for Bahamians.

Since the 1980s, the tourism sector has been rapidly expanding in Belize, and continues to expand vigorously, accounting for a significant portion of private sector investment during the 1990s. Employment figures in the downstream tourist sector are unavailable. Seventy per cent of the tourist traffic comes from the US and 10 per cent from Canada.

While Belize is a relatively new tourist destination, there are close to 400 hotels, and 4,000 rooms. The hotel sub-sector is very open, with a high degree of foreign owned and operated businesses.

The majority of Belizean owned hotels and guesthouses fall between the 1 to 20 room categories. The larger hotels are foreign owned. The only chain operator is Radisson, with 120 rooms (Table 18). The largest destination point is San Pedro, which is an upscale boutique resort centre with the cost of rooms ranging from US $500 - $1,000 and a mid-range of hotels with rooms costing US $200 -$300 per night. Lower scale properties, largely locally owned, charge between US $100 –200, while guesthouses charge under US $100.

<table>
<thead>
<tr>
<th>Table 18. Hotel Size Distribution: Belize</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Rooms</td>
</tr>
<tr>
<td>-----------------</td>
</tr>
<tr>
<td>1 –10</td>
</tr>
<tr>
<td>11 – 20</td>
</tr>
<tr>
<td>21 – 50</td>
</tr>
<tr>
<td>&gt; 50</td>
</tr>
<tr>
<td><strong>Total</strong></td>
</tr>
</tbody>
</table>
There are relatively few barriers to entry, though Best Western is vertically integrated via its reservation system. Under the Fiscal Incentives Act, hotels may be awarded development concessions that provide for tax holidays and duty exemptions. All development concessions now granted only provide duty exemption privileges on imported equipment, as government has now put a moratorium on the granting of tax holidays. Barriers to market entry are primarily lack of capital and human resources and actual market knowledge. Competitive advantage may be gained through personal connections within Belize; some hoteliers get easier access to international trade shows, or are given priority for press visits. However, the general view was that there is less political interference in the tourism sector than in other industries.

Tourism is the largest earner of foreign currency for Jamaica, contributing more than 45 percent of the foreign currency accruing to the economy.\textsuperscript{42} The tourism product of Jamaica comprises a broad range of activities. The dominant activity is accommodation, accounting for about 51 percent of tourism’s contribution to GDP and about 47 percent of its contribution to employment in the industry (Table 19 below). There are approximately 23,067 beds distributed over 48 all-inclusive and 166 non all-inclusive facilities, as well as guesthouses, villas and apartments. In 1999 and 2000, room capacity grew significantly with major investment in hotel construction. Hedonism III in Runaway Bay, opened as a 225-room facility in 1999, while in 2000, the Ritz Carlton added a 430-room facility in Montego Bay and the FDR Pebbles also opened facilities in Trelawny.

The entertainment component, accounting for about 10 percent of tourism’s contribution to GDP, creates value-added services estimated at approximately Ja$37,340 per worker (Table 19 below). Only miscellaneous communication services (telephone) and beverages command a greater share per worker of the tourism dollar in the private sector. It is also significant to note that government makes the largest value-added contribution to the sector (J$107,848 per worker).

### Table 19. Structure of the Tourism Industry, Jamaica, 1997

<table>
<thead>
<tr>
<th>Sector of Industry</th>
<th>Total (J$ million)</th>
<th>% All</th>
<th>Number of Workers</th>
<th>% All</th>
<th>GDP/Worker</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accommodation</td>
<td>8,609.6</td>
<td>51.09</td>
<td>33,927</td>
<td>47.40</td>
<td>25,376.84</td>
</tr>
<tr>
<td>Food and Beverage</td>
<td>733.4</td>
<td>4.35</td>
<td>3,908</td>
<td>5.46</td>
<td>18,766.63</td>
</tr>
<tr>
<td>Entertainment</td>
<td>1,656.8</td>
<td>9.83</td>
<td>4,437</td>
<td>6.20</td>
<td>37,340.55</td>
</tr>
<tr>
<td>Transportation</td>
<td>1,554.8</td>
<td>9.23</td>
<td>11,449</td>
<td>16.00</td>
<td>13,580.23</td>
</tr>
<tr>
<td>Shopping (1)</td>
<td>2,675.4</td>
<td>15.88</td>
<td>13,890</td>
<td>19.41</td>
<td>19,261.34</td>
</tr>
<tr>
<td>Miscellaneous (2)</td>
<td>347.9</td>
<td>2.06</td>
<td>579</td>
<td>0.81</td>
<td>60,086.36</td>
</tr>
<tr>
<td>Government (3)</td>
<td>797.0</td>
<td>4.73</td>
<td>739</td>
<td>1.03</td>
<td>107,848.44</td>
</tr>
<tr>
<td>Investment</td>
<td>477.7</td>
<td>2.83</td>
<td>2,641</td>
<td>3.69</td>
<td>18,087.85</td>
</tr>
<tr>
<td><strong>All Sectors</strong></td>
<td><strong>16,852.6</strong></td>
<td><strong>100.00</strong></td>
<td><strong>71,570</strong></td>
<td><strong>100.00</strong></td>
<td><strong>100.00</strong></td>
</tr>
</tbody>
</table>

**Notes:**  
(1) Estimated from margin earned includes in-bond and other tourism related stores.  
(2) Demands from beverages and telephone services.  
(3) Includes direct and indirect taxes, the latter not contributing to GDP.

**Source:** Tourism in Jamaica, An Economic Analysis, 1997, as reported in RES & CO (1999), Master Plan for Sustainable Tourism Development, Diagnostic & Strategic Options, Draft Report Prepared for the Office of the Prime Minister.

Jamaica’s tourism industry contributed 7.8 percent of GDP in 2001, falling from 8.1 per cent in 2000, largely due to the economic recession in the USA and the fallout from terrorist attacks on September 11, 2001. After 10 consecutive years of growth,
stopover visitors from the USA fell by 3 percent in 2001. Cruise ship arrivals also fell by 7 percent and total visitor arrivals fell by 5 percent in 2001.\textsuperscript{43}

Over the past 15 years, the industry in Jamaica has experienced a transition from an earlier stage in which the dominant hotels were foreign owned to its current structure with dominant local ownership. Government divested all of its holdings over the past 12 years. Today, Sandals, Super Clubs, and Friends International supply about 40 percent of the rooms available and 60 percent of all the all-inclusive hotels. However, since 1998, government, through Finsac, has taken over failing operations to avoid excessive negative fallout in the industry. Two of the hotels now held by Finsac are the former Club Jamaica and the Jamaica Grande Hotel.

With respect to market access, government has set no limitations on cross-border supply, consumption abroad, and commercial presence for the activities of hotels and restaurants, travel agencies and tour operators. There is also no participatory discrimination for ownership by entrepreneurs and investors with respect to nationality. Total foreign ownership is allowed. Restrictions exist only with respect to the employment of other nationalities in the sector. The government has provided substantial policy support for the tourism industry.

In St. Lucia, tourism accounted for 13 per cent of GDP in 2001, compared to 8.6 percent in 1990. There is no current available data on employment in St. Lucia, but with the decline in the banana industry, there was increased unemployment. Some employment has been generated by the expanding tourism sector.

There are more than 100 tourism accommodation establishments currently doing business in St. Lucia, of which 12 are classified as large properties (more than 75 rooms). Ten (10) of the large properties are foreign owned as are about eleven (11) of the small properties. However, the foreign owned hotels account for approximately two-thirds of the total number of hotel rooms, illustrating the fact that despite their seemingly small proportion of property ownership, they dominate the tourism accommodation sector and contribute significantly to the marketing thrust of St. Lucia.

Other sub-sectors of the tourism industry such as ground handling, travel agencies, local tour operators, car rentals and taxi services, security services, media production, entertainment, and real estate services are almost exclusively owned and operated by St. Lucians. However, there is a significant foreign ownership and management in other ancillary sub-sectors, including airport shuttle and tours (helicopter services in particular), gifts and souvenir shops, yachting services, airline companies, management services and consulting, financial services, day boat charters, and sporting services (e.g., golf).

The tourism industry is perhaps the one most open to competition and reflective of transparent competition practices. It is also the only industry that St. Lucia can now regard as internationally competitive.

\textsuperscript{43} PIOJ (2001) Economic and Social Survey Jamaica, p. 15. 1-2.
St. Vincent’s tourism industry is small and growing. In 2002, tourist expenditure totaled US$203.43 million or 33 percent of GDP, while in 2002, it had increased to 35.7 percent of GDP.

Most of the hotels and virtually all of the guesthouses in SVG are locally owned and operated and are all family owned and mostly family managed. This excludes Mustique, which is a unique case. The concept there is upscale Villa rental, all of which are foreign owned. The ownership structure may be due to failure in the investment promotion effort since significant concessions are offered to local and foreign investors alike for investments in this sector. There are three relatively large hotel operations on Canouan, which are all foreign owned. These are the largest hotels in SVG.

All of the on-land tours and related transportation are locally owned and operated. However, in the boat tours and charters sub-sector, the largest entities are foreign owned and operated but there are quite a few small entities, locally owned and operated. The diving operations are also foreign owned and operated. There are no locally owned diving operations on the islands.

Most of the restaurants in SVG are locally owned and operated. There are a few that are not, and these include the Chinese and French restaurants. Most of the foreign owned restaurants are associated with a hotel operation but there are some that are not. The local entities are all family owned and mostly managed by family. Some of the foreign owned entities are similarly family owned and operated.

For the purpose of this study, the industry in Trinidad and Tobago was divided along geographic lines primarily because the larger hotels in Trinidad vie for mostly corporate clients, while those in Tobago cater largely to tourists. While there are other smaller hotels in Trinidad, the market is largely dominated by two large foreign-owned hotels in the north (both parts of international hotel chains). Each hotel employs roughly about 150 employees. Their primary area of activity is in the attraction of corporate clients by providing facilities, such as large conferencing facilities, which are amenable to the requirements of this class of clients. As a result, the market is not very competitive given the number of large hotels and the size of the market. High costs of entry and the need for a ‘brand name’ are also barriers to entry, as significant investments must be made in providing the necessary facilities.

In Tobago, the hotel industry is a little more competitive as there are more hotels and smaller guesthouses. Among the larger hotels, competition takes place generally at the level of price and to some extent, on the basis of reputation.

3.2.3 Competition Issues in the Tourism Sector

There are three major competition issues in the tourism sector. One is the chronic problems experienced in all the major tourist countries with ground transportation of
tourists, both taxi service and local tours; the second is the dominant position of the Destination Management Operators who are the ground agents for the International Tour Operators; and the third is the control exercised by International Tour Operators who dominate the reservation sub-sector.

(a) Ground Transport for Tourists

Belize

In Belize, the main issue is access by small tour operators to cruise ship passengers. Arrivals of cruise ships have increased 500 per cent in the last three years because cruise liners have changed their route since September 11 to the Northern Caribbean so as to service the ships from US ports. The government has offered a programme of training tour guides, but complaints are heard that unless a guide is fortunate enough to be hired by a large company, they find themselves without work. In order to become a tour guide, one has to be a Belizean national. There are two large players, Belitur and Cruise Solutions, with sound financial banking and marketing power.

Cruise Solutions is owned by Discovery Expeditions, which services overnight tourists. There are 200 licensed operators (and probably another 50 – 100 operating without licence) and 800 licensed tour guides. Smaller tour operators and water taxis bring the tourists from the cruise ships to the shore. The small operators, of which there are many, service some of the distant district hotels. Overnight land tourists are serviced by taxis and the tour operators in the area.

There were complaints that the cruise ship operators deal directly with the larger tour operators and refuse to deal with the small ones. It is estimated that approximately 60 per cent of cruise passengers take organised tours, and the ship operators take some 15 – 20 per cent commission on the tour price. Speculation is that the ships earn more in Belize than in other ports.

The large ground tour operators have now taken to bypassing the smaller local operators and organising their own tours, including down- river excursions. Whereas before locals, in smaller boats, took the tourists, and local vendors provided refreshments, the tour operators are now providing inclusive refreshments, thus crowding out the small providers.

Another concern was the impact that the massive inflow of cruise ship passengers was having on the longer established and more lucrative business of overnight tourists (cruise ship passengers spend far less in the economy). Sites of interest are becoming over-crowed and therefore losing their attractiveness to the overnight tourists. The environmental impact is causing great concern – there is a decrease in the number of sharks, and reefs are being affected by the impact of sheer numbers of people and the over fishing. The government had encouraged shrimp farming which is also threatening the reefs with pollution. There is irrefutable empirical evidence from studies in several
countries to show that shrimp farms have devastating effects on the surrounding environment, particularly reefs.

Tour operators lease buses from the sole country-wide bus operator in Belize, Novelo Bus Company. Twenty five per cent of the leased buses operate out of Belize City servicing cruise ship passengers. Tour operators have faced problems from Novelo’s, which exercise leverage because of its monopoly position. For instance, on one recent occasion, Novelo’s refused to send buses to pick up cruise ship passengers supposedly because of a problem between itself and the tour operator over payment. Over 200 tourists were left stranded and the Tourism Board had to intervene so buses would be made available immediately. However, a new locally owned company has recently been formed, Tourtian, with 35 first class buses, but is licensed to serve only the tourist sector.

The taxi sector in Belize seems to be less problematic than in other countries studied. One taxi association controls airport traffic, another does the cruise ship sector, a third one for water taxis and one for the city route. These associations are self-regulated and decide upon their route and then tightly control them. The association work seamlessly without government intervention, and there seems to be little problems among them.

**St. Lucia**

This is not the case in St. Lucia, however, where there is a unique and unbelievably wasteful and inefficient system. The Southern Taxi Association has a monopoly on taking tourists from the Hewannora International Airport in the South of the island to the hotels, but cannot take tourists from the hotel to the airport, while the North Taxi Association has the reverse monopoly of taking tourists from the hotels to the airport, but must return empty (a distance of some 64 km). The result is that passengers are charged double fares. The government, in order to deal with a particular situation in the early 1980s involving hotel closures in the South, introduced this system temporarily. However, the system became entrenched, and successive governments have not had the political will to dismantle it and re-introduce competition.

There were complaints that buses used for transportation to and from the airport are unsafe because there are no separate compartments for luggage. This is dangerous as loose luggage could fly forward and cause injury to passengers. Concessions were given by the government to upgrade the buses but this was not monitored, and the only change that occurred was that air-conditioning was made available. The safety issue is still there.

Local ground agents for International Tour Operators must use the taxi service. They are not allowed to vertically integrate. They complained that they are at the mercy of the Taxi Association, without the option to choose which vehicles or drivers service their clients. While they would like to introduce quality standards for transport, with
regard to the condition of the vehicles, and by introducing a new dress code for drivers, they are not allowed to do this. One interviewee reported that on one occasion, a vehicle from Lazarus Funeral Home was sent to collect foreign tourism officials conducting an inspection. The interviewee complained that taxi drivers are not appropriately dressed and do not understand the importance of doing so. Some are illiterate, which is a serious problem since they cannot read their work slips. It is alleged that some are so old that they are going blind. The Ground Operators claimed that they would like to work with the drivers, providing training, setting standards and supplying them with cell phones, but they cannot do so. Water taxis are merely converted fishing boats with very poor standards. The taxis drivers have no incentive to provide better service and compete because they have security of jobs since work is allocated on a peg basis.

Part of the problem is that there are too many tourism taxi drivers – 1,200 in St. Lucia versus 280 in Barbados and 350 – 400 in Puerto Rico. The sense of monopoly is so strong that on one occasion, the Southern Taxi Association threatened to block a bus sent by the local cricket association, and outfitted with the livery of the West Indies Cricket Board, from picking up the West Indian Cricket Team, as is the custom in all other West Indian islands.

This current situation was compounded when the government held a one-day seminar in 1999 to provide certification for tourism taxi drivers. Eleven hundred drivers turned up, were certified as tourism taxi drivers whether they learnt from the seminar or not, and became eligible for duty free importation of vehicles. It is alleged that now there are instances of one taxi driver owning some seven vehicles, which are sometimes driven by people without certification. There was no monitoring of the allocation of license plates and what type of vehicle was bought.

An internal Ministry of Tourism study done in 2001 recommended scrapping the entire system, establishing minimum standards based on the updated EC Directives, and providing a duty free regime for vehicles based on those standards. However, at the political level, the standards were compromised and the Cabinet of Ministers refused to change the system.

In mid-2002, another potentially uncompetitive situation arose when the National Taxi Association (NTA) vehemently protested plans to allow a ground handler to shuttle a limited number of passengers, arriving on a charter flight arranged by that ground handler, from the international airport in the South of the island to the small regional airport some sixty miles to the north. Apparently some of the potential passengers were willing to pay in advance for that shuttle service because of their distaste for the long and winding road trip via sometimes quite inadequately equipped ground transportation. In any event, the concept of sovereignty of the customer and allowing him or her a choice of transportation was not respected by the NTA. The airports shuttle plan has in the meantime been scuttled while the government seeks to “address” the matter.
Bahamas

While ground transport is a small part of the economy of the Bahamas, it is a very contested and contentious sector. There are three types of transport: taxis, tour operators, and jitneys. The taxis service the airport to hotel route and the needs of hotel guests. The government fixes taxi rates, but the taxi association does attempt to influence the government’s decision on rates. Tour Operators have made incursions into this niche by providing the same service from the airport. Tour operators are linked to hotels in all-inclusive packages of airfares, room rate and ground transportation. Prices are set by comparing prices in competitors’ markets. Tour operators and taxis also compete for the cruise ship passengers. Taxi owners are also facing competition from water taxis that operate from hotels in Nassau to Paradise Island or other locations. The jitney operators service the local population. Prices are controlled and routes are allocated. All jitney services are privately owned.

The system in the Bahamas is complex. There are Livery cars that are limousine luxury taxis for the more discriminating tourists. In the past, one person owned the limos, but the last government gave out one hundred new limo plates. As tourism expanded, bus transport was introduced and it was alleged that the Bahamas Transport Union was offered the franchise, but the persons who controlled the union took the franchise and operated it privately. Eventually, Play Tours and Majestic Tours were established and these two companies have mopped up the sector because the others were unable to compete with them. Tour cars are limited to 50 per cent of arrivals at the ports. Now the government is issuing private charter plates with the limitation that they must give notice twenty fours hours in advance of their pick-up but can operate anywhere. However, there are concerns that the 24-hour advanced notice is not adhered to and, that the law is not being enforced. This is so not only for the operation of private chartered plates but also for the number of plates issued for these and limos.

The Bahamas Taxi Association is a long established and highly politicised body, very protective of what they consider to be their turf. Indeed, as far back as 1958 (remembering that tourism in the Bahamas dates back to the late 19th - early 20th century), the then Taxicab Union, which objected to airline passengers being carried by tour company cars, blockaded the approaches to the airport on the day that the new airport was scheduled to open. In sympathy with the Taxis Union, there was a general strike that shut down the economy for 19 days and it took months for the tourism industry to recover.44

The manifesto of the newly elected government (the PLP) promises to devise a fair system to prevent tour operators and water taxis from encroaching on the business of taxi drivers and depriving them of their livelihood, but also allowing water taxis and tour operators to earn a living. This is clearly a political issue, and one that would not allow free competition within the sector, be it even only amongst Bahamians. It is a socio-economic issue, like in St. Lucia. Some 2,000 families depend on the taxis for their livelihood. But more than that, it is an issue that goes back to deep-seated resentments

and concerns, since the two largest tour operator companies, Play Tours and Majestic Tours, are owned by Bill Saunders, a white Bahamian and part of the entrenched wealthy group, which is seen to be elbowing out the small black entrepreneurs with their privately owned taxis. Majestic Tours owns all franchises except the ones on the jitneys servicing the local population, according to the interviewee at Bahamas Taxi Union.

Private sector persons interviewed complained about the taxi service, including the dilapidated state of cars, the inefficiency of the service, and the lack of radio car system or cell phones that would allow quick dispatch to waiting clients. Moreover, the taxis operate out of the hotels and if locals wish to get a cab, it is very difficult. The Bahamas Taxi Union refuted this, however, stating that they do have an inter-connecting system to dispatch vehicles. There are between 50 and 100 vehicles with radios. More advertising seems to be needed since the management of very large companies are unaware of this service.

There are over 300 jitneys on the road, leading to over capacity, but the perception is that the politicians will not address the problem because of concerns that owners would lose their earnings. Moreover, there are concerns about the lack of transparency in the assignment of plates, and suspicion that political largesse is involved.

Continuous rivalry and disputes prevail between the several tourist transport providers, so much so that in Freeport there was a showdown between taxi drivers and tour buses at the cruise ship port. The result was that passengers re-boarded, the ship left, and the shipping line cancelled Freeport as one of its ports of call. An interview with the Chamber of Commerce in Freeport revealed that there is a socio-economic issue of importance involved in this situation. In Freeport, white collar workers are retired at age 60, but their pension does not become available until age 65. These displaced persons use the taxi service as a means of earning a living during that time gap. Many are former civil servants, executives in industries, or trained for technical positions in the petroleum industry. They had good jobs, but did not secure their future. Tour operators on the other hand, are wealthy businessmen who are consolidating and expanding their wealth. It is a matter of bread and butter for the taxi drivers.

A major problem in Freeport, according to interviewees, is the shoddy manner in which tourists are served by taxis. They are crammed into cabs, which would not leave until full of passengers, to the discomfort and inconvenience of the tourists. The quality of the service is poor, so much so that cruise liners prefer to avoid Freeport as a stopover. Taxis are in poor condition and lack air-conditioning. There are about 600 taxis, while the sector should accommodate half the amount comfortably.

(b) Destination Management Operators

The International Tour Operators establish vertical links with companies in the tourist destinations to manage the tourist experience from landing to take-off. They tend to use the larger companies, and as this niche market opened, entrenched local capital holders saw the opportunity and moved into this sub-sector in some of the territories. It
is no surprise that International Tour Operators would prefer to deal with larger companies since they require high standards, a full comprehension of what is needed, including an understanding of the European and North America markets. The EU Directives on tourism management provide technical specifications regarding safety and liability issues. St. Lucia Reps, the leading Destination Management Company in that country, argued that those who have been successful were those who were prepared to understand these Directives and provide good service. They arrange transfers, tours and special events.

There has been a mushrooming of small companies in Barbados providing service, and beginning to penetrate other islands. Sun Tours is one such company that had loose relations with St. Lucia Reps., but Sun Tours has now moved into St. Lucia. According to St. Lucia Rep, Sun Tours claimed that it has a relationship with Virgin Holidays and took away that contract from St Lucia Reps., which involves 50 per cent of the arrivals from the UK. Sun Tours now operates a car hire department in St. Lucia and has managed to arrange a preferential rate from taxis at the larger hotels. This contravenes the agreement that has been arrived at between Destination Managers and taxis, in the view of St. Lucia Reps, it was felt that the other Destination Managers could demand the same price. There was concern that Sun Tours could be cross-subsidising its St. Lucia operation from profits made in its Barbados business, where it also operates hired cars. There were five main Tour Operators in St. Lucia, but one is being squeezed out. However, St. Lucia Reps was philosophical about the competition and reasoned that they will have to change their tactics since they cannot now make enough money arranging transfers. The market is made up of 20 percent independent traveller and 80 percent packaged tours and St. Lucia Reps. controlled 80 percent of the packaged tours, and thus 64 percent of total tourist arrivals.

St. Lucia Reps’ dominance derives from historical factors, that is, historically derived wealth and overlapping ownership of two large hotels through family ties. They were viewed as very pro-active and aggressive in seeking out new contracts, and is always represented at trade shows. Complaints have however been heard that because of their dominant position in the market, they are able to squeeze providers of sites and restaurants on price, refusing to bring business unless they are prepared to accept low rates. The penetration level of restaurants included in the all-inclusive package is about 60 percent and the independent restaurants are complaining that they cannot compete with restaurants working with the destination management companies.

An attempt was made by the government to erode the control exercised by St. Lucia Reps. through the EU funded Tourism Heritage Programme (1999 – 2002) which sought to empower people in the communities to develop and manage their heritage sites, and market them. However, the project has not been fully successful because of lack of expertise and there was no follow-up project providing funds and expertise. A successor project is now to be funded under private sector development strategy funds from the EU. These sites include waterfalls, botanical gardens and cultural activities.
With respect to the cruise ship business, the situation is even more challenging. The cruise ships are able, because of their size and total control over their itinerary, to exert undue pressure on small domestic service providers in the various destinations to significantly lower the prices charged for services, including tours, sites & attractions and provisioning, while charging the individual passenger the full cost of the service. Thus the entire burden of lower prices is borne by the local service providers, who sometimes are operating at the margin and barely able to survive but who depend almost exclusively on the cruise ships for business. This situation obtains in all the countries under study with the possible exception of the Bahamas, which has more clout because of its greater significance as the leading cruise ship destination for USA originating visitors.

The tourism business in St. Vincent is still very small, but already there is a concentration, with Goddards having the agency for boat cruises, freight and tours. It controls about 90 percent of business.

(c) International Tour Operators

International Tour Operators dominate the hotel reservation business, linking themselves to airlines and travel agents. The big Tour Operators that control the business in the Caribbean are:

- Virgin Holidays (UK) - Virgin Atlantic
- Kuoni - British Airways
- Go Go Travels - American Eagle
- Apple Tours

Other companies servicing the Bahamas include:
- Air Canada Vacations
- Certified Tours (linked to Delta)
- US Air Vacations

These companies negotiate the airfare and hotel room and then sell the package to Travel Agencies. The principal issue is that the international tour operators negotiate very low room rates and they cream off the major profits of the trade. Another problem is that only those hotels featured by the Tour Operators get bookings linked to airline seats. Other hotels do not have access to airline seats and must use other, less convenient airline routes. The Tour Operators discount heavily when they are big enough to control many travel agents, and are using chartered services as well, drastically undercutting the airlines. Laker Airlines could not survive this competition, for instance.

Air Jamaica Vacations has begun employing the same practice, in that when someone calls in to book a flight, they are channelled to Sandals Hotel, which is owned by the same company as Air Jamaica. However, they do carry non-Sandals business as well.
There are some obvious anti-competitive practices in the operation of the tourism industry in the Caribbean. While some of those practices may not be unique to small destinations, the fact that those countries are so dependent on tourism and are such small players in the global scheme of things makes it a compelling case for further study and regulation. Tourism is perhaps the most internationally competitive industry in these small countries and could be the only internationally competitive sector at the moment in some. However, the structure of ownership, organization of the major businesses, such as hotel reservation and international tour operators, and the prevalence of protective mechanisms for local ground transportation providers may all lend themselves to dominance of market position. In that regard, special emphasis must be placed on the tourism sector in any attempt to introduce competition policy disciplines to the region.

In an UNCTAD study on the tourism sector (Evans 1999:61-67), the conclusion was that the problems of competition and anti-competitive behaviour stems largely from the industry structure and patterns of anti-competitive behaviour in the developed countries, but that the effects are felt largely in developing countries. The study identifies three areas where competition is restricted: airline travel, airport access issues, and distribution channels. Of particular relevance to this study is the biases identified in CRS/GDS/HDS systems, which is a network of computerised reservation systems used by tour operators and travel agents. The problem identified in the US is asymmetric information with tied-in biases in hotel distribution systems, frequent flyer programmes and directed selling, with market power centering on CRS display, airline alliances and competition and access to distribution systems and computer displays. In Europe, the main competition problem arises from the power of the travel agent/tour operator relationship and lack of transparency in the process for the consumers (p. 65).

### 3.3 Production of Goods

A decision was made at the end of Phase 1 to focus on specific sub-sectors that are important to the lower income groups because they provide basic needs. As such, poultry, flour and cement were chosen. Beer provided an interesting study because it is a source of intra-regional tension, particularly between St. Lucia and Trinidad and Tobago. The next section provides a survey of competition in these sectors.

#### 3.3.1 Poultry

**Profile of the Poultry Industry**

According to the President of the Caribbean Poultry Association, the Poultry Industry in the Caribbean produced 110,000 million broilers valued at US$360 million.
and 25 million eggs valued at US$30 million in 1999, making it one of the top three agro-industries within CARICOM (the others being sugar ex-factory sales = US$450m and rice = US$360m). The industry provides direct employment for 32,300 persons, not including employment in the production of associated corn, rice and supporting services. Consumption of poultry in this region is 40.39 kilogrammes per capita, which is much higher than the per capita consumption in the developed world: 24 kilogrammes per capita. It is estimated that poultry comprises 86 percent of the region’s meat consumption compared with 40-60 percent for most industrialized countries. The regional industry provides for 65 percent of all chicken and 50 percent of all animal protein consumed in the region. This is a very important factor in food security. Moreover, the industry plays a significant role in rural development, providing opportunities for sustainable livelihoods and access to food.\textsuperscript{46}

While tariff on poultry parts within most CARICOM countries is 100 percent, it is noteworthy that in Canada, it is 238 percent, Mexico – 240 percent, El Salvador – 176 percent and others – Nicaragua, Costa Rica and the Andean Community – all considerably higher than CARICOM’s.

The US, which is the largest producer of poultry in the world, uses Food Safety and Avian Health (SPS) measures to limit access to their markets to less than 3 percent of their consumption, compared to CARICOM which is the third largest importer of poultry meats in the Americas, importing some 35 percent of its consumption.\textsuperscript{47}

The major problem faced by Caribbean poultry producers is the unfair competition they face from residual chicken parts dumped by US exporters who sell the product at 30 percent less than cost. (US consumers have a preference for chicken breast and generally do not consume the rest of the chicken). While the poultry industry is protected in Belize and Trinidad and Tobago, the markets are largely open in the other countries under study.

**Belize**

In Belize, the Mennonites control commercial poultry and egg production, which is vertically integrated, from feed production, hatcheries, rearing and slaughtering facilities and distribution network. It is very difficult for new entrants to compete with the low cost offered by the Mennonites through cost savings achieved by vertical integration and economies of scale. Consumers are satisfied that they are getting a good quality chicken at a good price. Moreover, they do not want poultry from the US, which they consider to be of inferior quality. Import licenses are required to import eggs and poultry. Belize is, for the most part, self-sufficient in poultry, and consumers feel that the market should

\textsuperscript{46} Speech by Patrick de Groot, President of the Caribbean Poultry Association at the Opening Session of the Broiler Processing and Marketing Competitiveness Workshop, Grad Barbados Beach Resort, March 12, 2003.

\textsuperscript{47} Ibid.
remain protected. Yet, the IMF’s report on Belize recommended that protection of poultry should be dismantled.

**St. Lucia**

Approximately 95 percent of poultry is imported from the US into St. Lucia and St. Vincent, with the latter importing EC$14 million last year. Most imports are from the US, although wings are imported from the UK. St. Lucia has protected the local market by requiring that importers first purchase 20 percent of their supplies from local sources, and then import the rest. The 20 percent is determined by the amount imported. There is an agreement between the Ministry of Agriculture, importers and processors that processors have 10 days to supply an order. If the order is not filled in that time frame, then the importer is free to import in excess of the quota. This local purchase is mandatory before a license allowing imports is granted. However, besides customs service tax and an environmental levy, there is essentially no discrimination in the market.

There are three local processors in St. Lucia, and they are unable to fill the 20 percent quota. There are insufficient farmers, and new entrants are hindered by the inability to access funds. As was noted in the section on banking, unlike Belize and St. Vincent, there are no special provisions to provide farmers and small entrepreneurs with access to capital at concessionary rates for development purposes. Nor is there any consideration of the need to link repayment schedules to the seasonal nature of farming. Banks consider it too risky to support the poultry farmers because of the stiff price competition from the US. There were complaints that the fact that poultry is subsidised in the US is not taken into consideration when assessing the performance of the poultry farmers. Residual products such as leg, back and necks, which are not eaten by US consumers, are sold at 30 percent below cost of production in the global market place.48

Indeed, one processor in St. Lucia who was interviewed claimed that his processing plant can produce 8,000 birds a day, but at present, only 1,500 birds are produced a day. He is unable to get the capital to expand. The processor also complained about the cost of electricity, which he felt was much higher than the rest of the region.

Interviews with poultry importers in St. Lucia revealed that the price of local poultry is about two and half times the price of imported poultry. Retailers are in a difficult position because there is an administrative directive to buy whole birds from local suppliers and consumers refuse to pay the higher price. So retailers sell imported and local whole birds at the same price, thereby subsidising the local farmers.

**St. Vincent**

48 Robert Best, Executive Director of the Caribbean Poultry Industry. Interview.
In St. Vincent, the government requires that a license be obtained for the import of all poultry products, and whole birds are restricted because these are produced locally. However, since local suppliers do not produce enough to supply the market, they are restricted to producing whole birds. While it is well known that the US pricing of chicken parts is highly cross-subsidised since there is no market for some parts of the chicken in the US, the real issue for consumers, both in St. Lucia and St. Vincent, is the quality of the imported chicken. It is believed that in the US, chickens are fed growth hormones and are artificially injected with antibiotics to deal with diseases that result from the conditions under which they are reared. This practice impacts negatively on human health. There is also the view that poultry is “dumped” in the islands up to two years after slaughter, and consumers complained about the rancid smell of the chicken. Local processors avoid using hormones and antibiotics. There is concern in St. Vincent about the issue of genetically modified foods which is now on the agenda of the Ministry of Health’s Committee on Food Quality.

Interestingly, in Belize, good quality corn is used to feed chickens. In a World Bank report on Belize, it was noted that chickens were being fed with a quality of corn that was fit for human consumption, and this was wasteful. Belizeans, on the other hand, argued that the wholesomeness of the food eaten by the chickens impacts upon human health. In this context, the processors argued that liberalisation of markets must be accompanied by the development of high standards and their enforcement.

Concern about the quality of the chicken has led the government Marketing Board in SVG to plan setting up a hatchery providing the feed in-house, and supplying about 15 percent of the market. In a meeting held with stakeholders, however, there was some concern expressed over the price at which the chicken would be sold, and that the Marketing Board might not be able to compete. The Marketing Board plans to create an appetite for local chicken before the market opens up, and tie supermarkets into the plan.

The price of poultry rose sharply in Trinidad and Tobago since the beginning of 2003, leading to a war of words between the poultry producers and the Minister of Legal Affairs with a threat by the Minister to allow imported chicken in Trinidad and Tobago (at present, poultry and sugar are the only two protected products). A note was sent to Cabinet to that effect (September 2, 2003).

According to a letter published in the newspaper by the Communications Specialist of the Ministry of Legal Affairs,\textsuperscript{49} the price of fresh whole chicken increased from a national average of TT$2.48 per pound (0.41¢) to TT$3.52 per pound in April 2003, to TT$4.00 per pound in July 2003, and to TT$4.70 (US$0.78¢) in August 2003, representing an overall increase of 85.5 percent between January and July 2003. The price of processed whole chicken increased by 33.6 percent from TT$6.46 to TT$8.63. According to the newspaper report, the increase in the price of chicken in April was explained by the industry’s players as representing a return to normal prices with the depletion of excess supplies that existed since August 2002 and increased cost in

\textsuperscript{49} The Minister of Legal Affairs has responsibility for Consumer Affairs. \textit{Newsday}, Sunday July 20, 2003, p. 18.
shipping, packaging, feed and grain. This explanation was accepted by the Ministry of Legal Affairs.

The Ministry’s investigation revealed that the majority of chicken produced locally is produced by contract farmers at a standard cost of $1.50 per bird, and there has been no change in this charge. Further, the Ministry, in its letter, noted that from June 1, 2003 there was an increase of a further 5.1 percent and following that, a weekly increase of 2.1 percent as at July 6, and 5.8 percent of July 11, 2003, and 17.5 percent in August leading to a price of TT$4.70 as at August 2003. Both consumers and the supermarkets have been complaining to the Ministry about the weekly and arbitrary increases in the price of chicken.

While the Minister threatened to open the market, she suggested this as a temporary measure to discipline the poultry producers, but not for a long enough time to destroy the industry.

By Cabinet’s decision, the poultry producers were given one week to reduce the price of chicken, failing which the market will be opened. Poultry producers immediately started advertising reduced prices, and met with the Minister to determine what will be deemed to be a reasonable price. As a result, the price of poultry was reduced to a band of TT$3.50-4.00.

A subsequent interview with the Trinidad and Tobago Poultry Association revealed that the dominant player in the market is alleged to have engaged in predatory pricing over an extended period in an attempt to drive out competitors. Other producers were forced to drop their prices to almost unsustainable levels, with two producers exiting the market and the predator substantially increasing market share. However, the predator subsequently reduced volume of production and thus raised prices since, no doubt, he was unable to sustain the low prices. The rest of the producers followed the leader. The Minister subsequently publicly acknowledged the possible predatory behaviour of one of the dominant producers.\(^{50}\) While predatory pricing can only be proved through an investigation, there is certainly an overwhelming view that predatory pricing was a strategy used by the firm to drive competitors out of the market, and he succeeded in driving out two. Moreover, the industry is vertically integrated, making entry into the market difficult.

### 3.3.2 Flour

**Jamaica**

There are flour mills in all the countries studied, except the Bahamas and St. Lucia. Archer Daniel Midland Milling Company (ADM), an American company, acquired the

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\(^{50}\) Statement at opening ceremony of the Trinidad and Tobago Manufacturers Association’s Workshop on Competition Law and Policy, November 6, 2003. Port of Spain, Trinidad.
Jamaican mill in 1997, and has a monopoly on flour, since flour is not imported because of the high tariff (20%) that is applied. ADM also has subsidiaries in Belize, Barbados, Grenada and Curacao. About three years ago, the company borrowed on the international market and modernised its plant in Jamaica, so that it is now fully automated and very efficient. It has the lowest price for flour in the Caribbean at US $15 per 100 lb. bag as opposed to US $21 for St. Vincent, US$24 for Belize and US$18 for Trinidad and Tobago. The costs in Grenada and Curacao are US$23 and US$27 respectively. The company is diversifying into other products with higher value-added, such as cake mixes, cream of wheat cereals, festival mix (exported to US) and rice.

**Belize**

The Belize Flour Mill, also owned by ADM, is smaller than the Jamaican one. It employs 150 persons directly and indirectly through procurement from local firms while another 30 are employed through contracts and maintenance work. The maximum price of flour is fixed by the government, and applications have to be made to the government for adjustments. Import of flour requires a license. The company’s ability to export is limited by the excessive costs of shipping within CARICOM, since all shipments must go through Miami. The interviewee at the Jamaican mill also complained about high shipping costs, claiming that the cost of shipping from Jamaica to Trinidad and Tobago is higher than the reverse. Both in Jamaica and Belize, the mills sell directly to bakers. In the case of Belize, 55 percent of their production goes to bakers. Consumers were found to be generally happy with the price and quality of flour. Yet, the IMF’s report on Belize contained an analysis of quantitative restrictions and found no basis for protecting the flour mill, or even having a flour mill in Belize.

**St. Vincent and the Grenadines (SVG)**

The Flour Mill in St. Vincent and the Grenadines has majority local ownership, with the government’s shares being 20 percent, local shares of 40 percent and a Canadian company, Mabelies Mill, owning 40 percent. There is a great sense of pride in the ownership of this flour mill since consumers consider the quality of the flour to be excellent, the mill generates employment, and it is considered a flag bearer for industry in the country. The mill is well designed, locals are well trained, and there are continuous training programmes linked to examinations in the UK. This industry is considered a good co-operative concept. Workers are transported by bus to work; there is a subsidised canteen, a playing field and a health plan.

Currently there is no legal barrier against imports of Grenadian flour but in any case, the cost per 100 lb. bag is cheaper in St. Vincent than in Grenada (US$21 as opposed to US$23). At one point, when the Flour Mill was not servicing the market fully, there were imports from Grenada, but that was displaced as local supplies improved. There was a general view that consumers were satisfied with the flour produced in St. Vincent and would not want competition from imports. There is an inter-
linking ownership between the flour mill and one of the supermarkets, which is government owned.

The price of flour is controlled in the OECS countries under Article 56 of the Treaty of Chagaramas which provides for Special and Differential Treatment for micro-economies within CARICOM. This therefore applies to St. Lucia as well, where flour and rice, are imported in bulk by the government in order to protect the food basket, that is, to ensure availability at a good price.

In St. Vincent, suspicion was expressed that there may be cross-regional collusion between flour mills to segment the market geographically, and this could be done through the Regional Flour Miller’s Association. It was argued that Trinidad and Tobago could sell flour at a much cheaper price in Barbados, for instance, than it actually does. The production cost in Trinidad and Tobago is about 40 percent below that of Barbados and St. Vincent, it was claimed. If this is correct, then the price of flour must be excessive in Trinidad and Tobago, at US$ 18 per 100lb. bag.

**Trinidad and Tobago**

There is one flour mill, The National Flour Mill, which is state-owned, and which has a monopoly in the market. In January 2002, the Flour Mill announced that it was increasing the price of flour from TT$110 per 100kg per bag to TT$134 per 100kg, because the price of wheat had gone up. The Bakers Association promptly met and issued a press statement after their deliberations, stating that they will be increasing the price of the breads that were previously under price control: hops, sandwich loaves, and 12-inch butter bread. An interview with the Bakers Association revealed that while they agree on a suggested price, individual bakers are free to sell bread at whatever price they choose.

In May, the mill reduced the price of flour to $120 from 134 per 100kg. However, the Baker’s Association has not reduced the price of bread. In the interview, they rationalised their decisions by pointing to the fact that flour is not the only input that determines the price factor. They pointed out that the minimum wage was increased from TT$7 per hour to TT$8 per hour, starting in January, and that will also increase their National Insurance contributions (which is calculated as a percentage of wage). Further, they argued that they have not as yet used the stocks bought at $134 because they had inventories.

One may ask, if they keep inventories for such a long time, then why did they raise the price immediately after the Flour Mill announced the increase in the price of flour? Surely they would have had inventions bought at a lower cost. The Bakers Association has been in existence since 1960. Another anti-competitive conduct discerned is price maintenance by one of the largest bakers who sell their brand of breads throughout the country. The retail price is printed on the wrapping. The intention of the bakery was to limit the maximum price that it could be sold at in the interest of consumers. However, it
is price maintenance. It is clear that trade associations and business persons are completely unaware that what they consider to be standard business practice is anti-competitive in some instances and will be sanctionable under the competition law.

Problems Faced by Mills

In Belize, the main problem faced by the Flour Mill is high production cost because of the cost of energy and labour as compared to their main competitors, Mexico and Guatemala, where costs are four to six times lower than in Belize. This is because Guatemalan flour producers benefit from access to PL 480 for raw materials, which allows for low prices and long repayment periods, while the Mexican government subsidises the transport of wheat. The interviewee claimed that subsidised Mexican flour entered the market last year, but the government could not undertake anti-dumping action because there is no legislation in Belize to sanction dumping.

The Jamaican Mill faces numerous problems. Their biggest problem is the cost of energy. While labour cost is cheaper in Central and South America, it is cheaper in Jamaica than in the US and Canada. However, cost of inputs are more expensive than in the US and Canada because it is more expensive to ship to an island than to transport over land.

The financial squeeze in Jamaica has affected them badly since they have to pay in US dollars for their raw material, and sell the finished product in Jamaican dollars which is very unstable, as seen by the downhill slide between March and May of 2003. Further, access to capital is difficult. The firm had to borrow on the international market to upgrade their plant. The rate of interest for loans is prohibitive. In addition, security poses a big problem for all Jamaican businesses, since firms have to incur additional cost to secure the premises and workers, and are unable to use the cheaper electricity rates at night because of the risks involved in working the night shift.

The price of flour is not controlled in Jamaica, but distributors controlled the price rather than the flour mill. An interesting move on the part of the ADM was to break the pricing control of the distributors by offering flour for sale to consumers at smaller quantities directly from the warehouse. The base price remains the same for everyone, but the Mill does not offer credit. The advantage which the distributors retained, therefore, is their credit facility. In this way, the ADM was able to make flour more accessible to small purchasers and to create a better price structure for the whole market.

There was a firm conviction amongst interviewees, both consumers and producers, that flour mills should be protected in the Caribbean. While Jamaica’s mill can compete in the international market, those in Barbados, Grenada, St. Vincent and Belize cannot. This argument was advanced as a matter of food security, because of the vulnerability of island economies to being cut off from imports in the event of a hurricane or other natural disasters. Moreover, there is a sense of national pride in these mills, and they provide
employment. Concern was expressed about possible competition from dumped flour from the EU once an Economic Partnership Agreement has been reached.

### 3.3.3 Cement Industry in the Region

The cement industry in the CARICOM region is controlled by one firm, Trinidad Cement Ltd. (TLC). The parent company is incorporated in Trinidad and Tobago, and is a joint venture of foreign and local ownership. A multinational firm of Mexican origin, Sierra Trading (Cemex S.A. de. C.V.), owns twenty percent of shares; individual Trinidad and Tobago nationals own 18.75 percent of the company, while the other 61.25 percent is owned by institutions in Trinidad and Tobago. During the last decade, TCL acquired the Jamaican and Barbados cement plants, that is, Caribbean Cement Company Ltd. of Jamaica and Arawak Cement Company Ltd. of Barbados. In 1996, TCL also acquired majority ownership in Ready Mix (West Indies) Ltd. (RML) which manufactures and sells pre-mixed concrete. RML in turn, acquired a 60 percent shareholding in Pre-mix and Pre-cast Concrete Inc. in Barbados in 2002. The Group also includes TCL Trading Ltd., incorporated in Anguilla in 1997. Its primary activity is trading in cement and related products, but it also functions as a marketing support for the two cement companies, Trinidad Cement Ltd. and Arawak Cement Company Ltd. TCL has a monopoly in cement production and distribution in the region.

TCL produces 1.5 million tons per annum. Ninety percent of their cement is sold in the English speaking Caribbean, though some is exported to Haiti, the Dominican Republic and Cuba. By contrast, Venezuela produces 8 million tons and Colombia 9-10 million tons per annum. So while TCL has a dominant market position in CARICOM, it is a small player in the wider Caribbean.

RML has 60 percent market share in the local market, and there are about 6-7 players. In Barbados and Jamaica there are 3 each. RML has six locations in Trinidad and Tobago for dispatching ready mix concrete, rather than a single batching plant like the others. While RML is a subsidiary of TCL, the company claimed that it is careful not to be seen as giving an advantage to RML though cross-subsidisation. It claimed that it offers the same price and credit terms to all the players in the market, and explained the dominance of Ready Mix by its reputation for high quality of the concrete, and this is because of the quality control that is in place. It is the first company in Trinidad and Tobago to have obtained the ISO 2000 certificate.

In 2002, Cemex attempted twice to take over the Cement Company, unsuccessfully. There is a 20 percent limitation on individual shareholding in the Articles of Continuance of TCL, and Cemex failed to get a majority vote from a specially convened shareholder’s meeting to remove this provision and thus clear the way for a take over by Cemex. That company was very aggressive in its take-over bid, and persisted from January until August, when the shareholders voted against the removal of the clause restricting shareholding.
There seems to be a very strong sentiment in the region that the company should not be taken over by a foreign company, and worse, one that has an international reputation for predatory behaviour and anti-competitive conduct. Cemex, together with La Farge (French) and Holein (Swiss) have cartelized the cement industry internationally, as several studies have shown. TCL was aware of Cemex’s reputation and was very wary of its intentions if it got complete control of the CARICOM market which would give it a dominant position in the wider Caribbean. There were concerns that Cemex could either raise prices once they had a monopoly, or close the plants and export cement to the region from Mexico. Cemex, in fact, raised the matter with the Fair Trading Commission in Jamaica, but had no case.

The market for cement is open to imports in the region, and there have been anti-dumping cases in Trinidad and Tobago and Jamaica against exporters from Thailand and Indonesia. The findings were that anti-dumping had taken place and the following additional duties applied: against Thailand by Trinidad 152.8 percent and Jamaica, 89 percent; against Indonesia by Trinidad – 48 percent and Jamaica, there was a preliminary ruling of 56.2 percent but this was reduced to 9.98 percent by judicial review. The management of TCL complained that the judicial review in Jamaica is made by Independent Commissioners who do not seem to understand anti-dumping rules. They also complained that they have to contend with the same importer, a Trinidad and Tobago company, in both markets but must fight the case in each country. They contended that the importer has done damage to the tune of TT$ 30 million. The importer has lost all anti-dumping cases against it. They proposed the establishment of a regional anti-dumping unit that could take care of such cross-regional cases.

The management of TCL argued that imported cement does not have a competitive advantage over regionally produced cement, so long as it is fairly traded. It claims that in Jamaica, there is dumping of cement from Egypt, Argentina, Thailand, China, Indonesia and Russia. It has filed a safeguard petitioned in Jamaica recently. The cement company recommended to the Council for Trade and Economic Development (COTED) of the CARICOM to increase the Common External Tariff (CET) applied in CARICOM to 50-60 percent. COTED complied and that bound rate is now in force. Their argument for so recommending was that anti-dumping institutions are weak in the region. With dumped cement easily available, it is difficult to convince the public that the price of cement is fair. Interviews with hardware dealers and construction contractors revealed great resentment against TCL. However, one has to view this with caution since the idea of dumping is new in Trinidad and Tobago and not clearly understood by the public. The fact that TCL slashed prices drastically to match the price of the dumped cement led to the view that they were overcharging before, and there is little sympathy for the problematic situation in which TCL found itself.

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52 The duty was very high because the cement supply was a distress cargo, in that the ship had problems and had to dock to be repaired. The cement was sold to a local importer at US$19.36 per ton CIF when the price should have been between US$48-54.
St. Lucia allows free importation of cement, but the price is controlled – fixed at EC$13.80 per bag. There is a sole agent, Remnick and Company. Cement is imported from Trinidad and Columbia. The view of interviewees was that consumers are not price-sensitive to cement. Rather, their concerns are with the general cost of construction, and their resentment is directed at the contractors whom they accuse of making as much as 120 percent on the cost of construction. In the view of some technical experts interviewed, TCL’s profits are extremely high, and there is room for trimming fat off. TCL, meanwhile, has embarked on a US$150 million programme over a 3-year period to improve cost structure.

St. Vincent imports cement from Venezuelan and Colombian companies and from TCL. Extra-regional cement should be subjected to a higher duty (50-60 percent bound rate set by COTED), but imports are usually treated as duty exempt. This was explained as a way to keep competition because of TCL’s monopoly. Through a reciprocity agreement with Venezuela, Vincentians pay US$56 per metric ton for cement out of Venezuela, as opposed to US$64 out of Barbados and Trinidad and Tobago. The final cost is more or less equalized because of the difference in freight cost. TCL has about 75 percent of market share in the OECS countries.

According to figures provided by TCL, the price of cement in Trinidad and Tobago, Jamaica, St. Lucia and SVG is competitive with cement out of Venezuela and Mexico. However, Colombian cement is much cheaper. The price of cement in Barbados is extraordinarily higher than in other countries (Table 20 below). This was explained in the context of high wages and cost of living in Barbados.

### Table 20. Cement Prices in the Region

<table>
<thead>
<tr>
<th>Country</th>
<th>Per mt Cement Ex Factory Price US$</th>
<th>Per mt Cement Retail Price US$</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trinidad and Tobago</td>
<td>108.08</td>
<td>118.68</td>
</tr>
<tr>
<td>Barbados</td>
<td>139.56</td>
<td>196.47</td>
</tr>
<tr>
<td>Jamaica</td>
<td>123.00</td>
<td>126.00</td>
</tr>
<tr>
<td>St Lucia</td>
<td>-</td>
<td>120.26</td>
</tr>
<tr>
<td>St Vincent</td>
<td>-</td>
<td>119.83</td>
</tr>
<tr>
<td>Venezuela</td>
<td>120.00</td>
<td>140.00</td>
</tr>
<tr>
<td>Columbia</td>
<td>83.00</td>
<td>-</td>
</tr>
<tr>
<td>Mexico</td>
<td>115.00</td>
<td>-</td>
</tr>
</tbody>
</table>

**Freight From to T&T:**

<table>
<thead>
<tr>
<th>Country</th>
<th>US$ per mt</th>
</tr>
</thead>
<tbody>
<tr>
<td>Venezuela</td>
<td>20.00</td>
</tr>
<tr>
<td>Colombia</td>
<td>25.00</td>
</tr>
<tr>
<td>Mexico</td>
<td>25.00</td>
</tr>
</tbody>
</table>
3.3.4 Beer

Most countries in the Caribbean have at least one beer brewery. It is almost a source of national pride to have one’s own brand of beer and consumer choice usually lean heavily towards local beer. The beer markets in St. Lucia, Trinidad and Tobago, and Jamaica were examined.

Jamaica

In Jamaica, there is a dominant supplier (Red Stripe beer), which company is now foreign owned (Desnoes & Geddes Ltd. D&G). Serious restructuring of this company was done: the brewery made fully automated and the workforce was rationalized. It is alleged that the workforce was reduced from some 2,500 workers to 400, and the union was broken up in the process, with the company using contract work and team-based work organisation. D&G engaged in exclusionary distribution agreements, the case was investigated by the FTC, and a consent agreement negotiated. This case is outlined in more detail in the section on the Jamaican FTC (Section 4.2 below).

St. Lucia

In St. Lucia, beer operates under a license regime. The dominant supplier, Heineken, has 90 percent of market share. There are other beers available – Ting and Red Stripe from Antigua and Jamaica, and Carib from Trinidad and Tobago. Heineken has good collaborative arrangements with other beer producers in the region. For instance, Banks Brewery in Guyana distributes Heineken and Angostura Ltd. distributes Heineken in Trinidad and Tobago. Heineken imports two soft drink brands from St. Vincent, in return for distribution of Heineken, and in Grenada a similar arrangement exists, the exchange being the import of malt. The market in St. Lucia is open to regional brands, despite the fact that a license is required, in that the government has not restricted imports. The dominant player has not objected. Extra- regional beer is charged the same duty across the region. St. Lucia is one of the most open markets. St. Kitts and St. Vincent both have quota restrictions and licenses.

Interviews revealed that consumers in St. Lucia have no problem with the price of beer. Consumer choice is informed by brand loyalty. Carib, in fact, is marginally cheaper than the local brand, but all beer sells at the same price at bars, because the retailers choose to even out the price. The true price is reflected at supermarkets. However, it is alleged that retailers do not promote Carib and Banks.
The St. Lucian law prevents the brewery from doing its own distribution and is obliged to sell to anyone with a wholesale license. The company has consolidated distribution of beer in St. Lucia. Six years ago, there were some sixty wholesale distributors and wholesalers dominated the market, but were not providing good service to the brewery or the customer. According to the interviewee, they did not collect the empty bottles, and were not promoting the product. The company has now changed to a combination of wholesale and direct sales. They reduced the number of wholesalers from 60 to 30, and they now require the wholesalers to provide other services, such as weekend and after hours delivery, consignments for parties and break bulk deliveries.

There are three of the 30 distribution contracts that are exclusive. The distributors utilize trucks that are totally computerised, with an entire information system with prices and credit system linked back to the brewery. The equipment belongs to the brewery. These distributors are assigned specific routes, and are not allowed to carry competitor’s products on the truck.

The Heineken brewery has problems with the Carib brewery in Trinidad. That brewery is owned by the Ansa McAl group of companies, and they were licensed to produce Heineken but the license was allegedly revoked. The Heineken brewery has encountered problems with customs, based on complaints from Carib, about their labelling. Further, it is alleged that Carib is giving special deals to distributors, which effectively blocks access to Heineken. Interviews in Trinidad revealed that both sides are accused of giving loyalty discounts to retailers to sell only their product. Carib complained that in St. Lucia, a 1 percent environmental tax was imposed on Carib sold in cans, but other canned drinks, such as Fruta, are not charged this tax. Interviews with supermarkets revealed that Carib has supplied fridges to store and display cold beers, but restrict the use of the fridge to only Carib Beer.

It is clear that these two giants in the beer industry are engaging in conduct that could be deemed to be anti-competitive, and which are affecting intra-regional trade. However, without a law in place in either country, there is little that could be done. It is interesting to note that this is not the first time that there have been competition problems in the beer market in Trinidad. Stag Brewery, which was licensed to produce Heineken, and Carib were locked in a destructive price war back in the late 1980s. Consumers were very happy, but the prices were unsustainable and eventually there was a merger of the two companies as Carib bought out Stag. Whether it was a hostile take over or a mutual agreement is uncertain, but what is clear was that the change resulted in the substantial reduction of competition in the market and the creation of a monopoly. One has to question whether that merger would have been allowed, had there been a competition law and authority in Trinidad and Tobago at the time.

Belize

There are two beer producers in Belize. Interviews of consumers revealed that there is discontent about the price and quality of beer. The industries have had grants of
concessions for the last 30 years, but still remain protected at the border. This is one product to which Belizean consumers are willing to open their borders.

### 3.3.5. Steel

Downstream steel and wire rods producers and hardwares in Trinidad and Tobago have been complaining bitterly about the treatment meted out to locals by the Multinational Corporation that owns the steel mill, ISPAT. This steel mill, the only one (1) in Trinidad and Tobago, was owned by the government, and divested to an Indian MNC about a decade ago. Part of the agreement for divestment is that the Steel Mill will supply the downstreamers to ensure the viability of that sector. However, the downstream industries and the hardwares are complaining that they were being charged prices that were considerably higher than the average world prices for steel.

Prices increased from 27 percent higher than average world prices in January 2002, to 40 percent higher in September and October 2002. Prices started coming down after that, declining abruptly from 35 percent above world prices in December 2002 to 5.5 percent above world prices in January 2003. Matters are made worse by the fact that little notice is given when prices are being changed, and this plays havoc with quotations provided by the downstreamers to their clients, and their frequent inability to fulfill order at promised prices. A further complaint is that the trucks are not dispatched as they are filled. Rather, documents are only completed and handed over when all orders for the day have been met, causing vehicles to remain idle for as many as 12 hours on a stretch.

The interviewee complained that the poorest quality and rejects are dumped on the Trinidad and Tobago market and that although standards exist, this is not monitored by the Bureau of Standards, despite complaints. The problem, in his view, is that the Bureau does not have the expertise to test, and must contract out the job. Nor does the Bureau have the power to seize goods. The view in the downstream industry is that ISPAT is trying to force closure of the factories, after which it would import the semi-finished products from its Indonesian and Mexican plants or take over the local downstream industry. They have already succeeded in closing one plant. One wonders if there is a case of dumping that could be brought against ISPAT by importers, giving that they sell their exports at a lower price than domestic charges? This, of course, depends on the criteria for dumping being met. And can ISPAT’s conduct in the Trinidad and Tobago market be considered predatory, given that it could be a strategy to drive out firms in downstream markets, to create a void which it would fill?

### 3.4 The Distribution and Retail Sectors

#### 3.4.1 Distributors

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53 Fact sheet produced by the Downstream Steel and Wire Rods Association and submitted to the author during an interview.
In CARICOM countries, importers in most cases are also distributors, and in many cases, are retailers as well. The very large importers tend to deal with wholesalers, but can also deal directly with retail outlets. So the lines are much diffused, and competition occurs across lines, that is, supermarkets or large retail businesses are importing directly from the US and competing with agents.

The issue of sole distribution is a problematic one in all the territories. Because of the small size of the market, particularly in the micro-economies, exporters have a preference for dealing with a sole importer and distributor, so that container loads of goods can be sent, rather than small consignments. It was the norm in the region to have sole agents for products, but this is eroding in all the territories, primarily because competitors can go to the large distributions houses in Miami and purchase a range of brands.

Interviews in St. Lucia and St. Vincent revealed that, indeed, many distributors are required by their suppliers to have sole importation rights for a brand, and not carry a competitor’s brand. This is strictly adhered to by the distributors. They explained that, in addition to economies of scale, the supplier also has security of payment, and credibility with the firms that are handling the product. They want to be sure that their distributor has the ability to stock the goods, manage the inventory and market the goods properly. There is an arrangement whereby the cost of advertising is split 50/50 between the supplier and the distributor. This is a vertical arrangement from North to South. Relationships tend to be traditional. The importer/distributor carry certain brands of products, and even when better products or prices become available, they tend to remain loyal.

With the trend now of direct buying by retailers at the large warehouses in Miami, sole agents are finding that retailers are importing their agency brands and free riding on their advertisements. For instance, an interview with the M&C Group revealed that Julians, the large supermarket in St. Lucia is bringing in products for which the M+C Group has exclusive distribution rights, such as Proctor and Gable products, and that there is a hotel in St. Lucia that buys wine and spirits from Martinique, brands for which M+C has the agency.

M+C recommended that in small economies, there is need for concentrations, and that if distributors were eliminated, it would increase the cost of imports because of diseconomies of scale. Indeed, it is interesting that, having cut out the middleman, that is M+C, Julians is not selling the products for less. Julians is therefore either paying more for the product or is creaming off more profits and consumers have not benefitted. The view was expressed that if newcomers in the market choose to reduce prices, then they can drive the older establishments out of the market. However, this may lead to narrowing of consumer choice and there is the question of whether savings will be passed on to consumers. M+C employs about 100 people.
Similar situations exist in the Bahamas, Trinidad and Tobago and SVG where sole agents are getting competition from retailers who import their brands directly from warehouses. In St. Vincent, though, the arrangement is even more entrenched because of the minuscule size of the population. It was argued that open competition would lead to higher prices because the larger importers may have to close their businesses. In Trinidad and Tobago, sole distribution agencies in pharmaceuticals, for instance, has been eroded significantly.

Suppliers’ refusal to deal with anyone but the sole importer/distributor is illustrated in a case in SVG in which a retailer tried to source detergent directly from the agent in Trinidad and Tobago, but was refused. He then went to the supplier in Miami, but was refused. The Ministry of Trade in SVG intervened, making contact with the Ministry of Trade in Trinidad and Tobago, and arguing that this is anti-competitive. However, the case was dropped because the retailer was accommodated. In another cross-regional case, the supplier in Trinidad and Tobago of KC Sweets has reprimanded M+C for also carrying sweets from Columbia, according to the interviewee from M&C.

Another case is the supplies to SVG of Nestle products from Trinidad and Tobago. Supplies are sent solely to Bryden and Spratt, a Barbadian company resident in SVG. A year ago, the ECGC (the Government’s Marketing Board) got Nestle to ship a container directly to them, since they had been purchasing a container per month through the agent, at great loss. The distributor got very annoyed and took steps to revoke the agreement between ECGC and Nestle, but could not succeed, because the ECGC was importing by the container load.

There is grave concern by importers and local producers in Trinidad and Tobago as to how they would manage if they cannot have exclusive arrangements with distributors. However, it is instructive that in Jamaica, suppliers and distributors saw no problem with refraining from exclusionary arrangements. They have adjusted their behaviour to conform to the Fair Competition Act, and are comfortable with it.

3.4.2 Retailers

The most pronounced trend that emerged from the findings of the interviews is the remarkable amount of competition faced by incumbents in the retail sector from the newly migrant ethnic groups: the Chinese, Taiwanese, East Indians and Syrians. This phenomenon has its precursor in the Trinidad and Tobago post World War Two experience of the arrival of Syrians who proceeded to build a business empire from the humble beginnings as peddlers. From Trinidad and Tobago, they spread through the region.

In Belize, the main shopping street has been taken over by East Indians, who purchase in bulk and work through an international network. In the process they are offering to consumers dry goods, including clothing, at very cheap prices. The Chinese and Taiwanese are also using the same strategy, buying in bulk. However, there were
some complaints about quality, since these groups tend to import rejects and sometimes food items sit on the shelf too long. In Belize and SVG, at one point the governments were offering citizenship for sale, provided that the buyer sets up a business. This resulted in an enclave population that is thriving in business and posing major challenges to the complacent incumbents. The Chinese and Taiwanese are largely involved in restaurants and the food retail businesses and in SVG there is a China Town. They have also brought an agricultural technical mission, planting crops and are exposing locals to the technology.

In St. Lucia and SVG, Syrians dominate the textile sector with very competitive prices. Now, Dominicans, Martinique’s and Barbadians shop in St. Lucia, and Grenadians and Barbadians shop in SVG. The Syrians are reputed to buy in bulk for the entire region, ship the goods to one territory and then break bulk and transship to the various islands. They have driven out competitors from the market with their low prices, but have not raised prices subsequently. They were not indulging in predatory behaviour, but rather, providing fierce competition. They have taken over Back Street, the capital of SVG, and have maintained their low cost, high turnover clothes and cloth sector, but are now in Malls providing higher end products. They are also investing heavily in real estate. Sixty percent of new commercial buildings in St. Lucia are owned by Syrians according to a Real Estate interviewee. This take-over by the Syrians is causing considerable resentment, particularly in SVG. Essentially, therefore, these ethnic groups collaborated to import in bulk and work very closely in their businesses. However, their “collusion” leads to better prices and more variety for consumers.

Indeed, the overwhelming view in all the countries under study, except Trinidad and Tobago, is that businesses do not collude to cartelise the market in order to reap higher profits. The findings were that, apart from the ethnic groups who have a community business culture, the business sector does not like to corporate, even when it is in their interest to do so. This may be because most businesses are family owned and very independent. In the whole of the OECS, there are only 18 public companies. In the Bahamas, there is a saying that “Partnership is a leaky boat.” This philosophy was found to prevail in all the countries, and there was a lot of conviction by interviewees that there is little or no collusion to raise prices. Indeed, the market is so small, literally, in some of these countries, that consumers can walk to compare prices. As such, firms try to match the lowest price. However, abuse of a dominant market position seems to be the major anti-competitive conduct of relevance for the region, and this is because smallness lends itself to concentration and entrenched historical wealth is very much in existence still. However, in Trinidad and Tobago there seems to be some indication of collusion amongst firms.

Courts Ltd. is also providing stiff competition to furniture retailers in SVG and has forced them to upgrade their product and advertise. In Belize, Courts has been purchasing furniture from the local producers, and this has generated business and also upgraded quality to meet the standards required by Courts. Moreover, by offering very good terms of credit, it has made furniture and appliances more accessible to the lower
income groups. There were complaints in St. Lucia, however, that Courts offers such low prices to local producers that they are increasingly becoming unviable.

**Supermarkets**

In Belize, though there is no one dominant supermarket, there is not much competition. Supermarkets tend to purchase from one another and maintain similar prices.

There is the view in St. Lucia that the entry of Julians (originally from Barbados) led to the demise of inefficient businesses, but also led to the mushrooming of other jobs. With the entry of Julians, there was noticeable improvement in the quality and price of goods. One interviewee said that Julians has changed the face of retail trading in St Lucia. Without a doubt, consumers are happy with the result of competition entering the market, because the incumbent was forced to improve services.

In St. Vincent, the incumbent who dominated the supermarket business was challenged by a government owned supermarket which was renovated and re-opened in 2002. Within two weeks all the other supermarkets had slashed prices.

In the Bahamas, the food sector (import, distribution and retail) is highly concentrated, and, as indicated above, a few families control the sector. There are two main supermarkets, City Market and Super Value/Portion Control. City Market has ten outlets in Nassau and two in Freeport. It is partly owned by Winn Dixie, a big supermarket chain in the United States. Super Value has ten outlets in Nassau and none in Freeport. The remaining food stores are in either only one location, or if more than one location, small in size. According to the Business Establishments Survey for 1999, there are 35 registered businesses for wholesale of food, beverages and tobacco, and 147 businesses in the retail of food, beverages and tobacco (convenient food stores included) in New Providence. In Grand Bahama, there are 14 wholesale and 44 retail establishments. Despite the seemingly large number of establishments in the food sector, though, City Market and Super Value dominate the food market, and ownership is concentrated in the hands of the “Bay Street Boys” the white families that have dominated the economy throughout the twentieth century.

There is a perception that the price of food is more than the competitive price should be, and according to interviewees from the Chamber of Commerce, the large food stores have the power to assign shelf space, and use this to limit competition by squeezing out unwanted suppliers. This complaint was heard in other countries as well. The Winn Dixie monopoly in Freeport is widely resented, and there were complaints about poor quality, limited choice and high prices. However, that monopoly is legally protected until 2054 under the Hawksbill Creek Agreement.

### 3.5 Some Service Sectors
3.5.1 The Downstream Petroleum Sector

Several problems were encountered in the services sector in Trinidad and Tobago. There is a fairly large and important local downstream sector servicing the petroleum industry (about 50 small operators and a few larger ones), which grew out of commitments by MNCs, written into Production Sharing Agreements, to use local firms. However, complaints are that the tendering procedure is not transparent, that the MNCs choose who they will accept tenders from, without any pre-qualification procedure, and they have been using external providers from Houston, Texas and the UK in the case of the British company. Further, tenders have to be submitted to the Houston office, which puts local companies at a disadvantage. Some MNCs are fairer than others, it seems. For instance, British Gas allows pre-qualification. Unfortunately, details could not be disclosed because the matter is under investigation.

In Trinidad and Tobago, the trade associations are quite strong and cartelization is evident amongst these association, largely because there is no law, and association members are unaware of the anti-trust issues, having historically functioned in this way. We saw this in the action of the Bakers Association, when they increased the price of certain types of bread. The Shipping Association, consisting of Shipping Agents, recently increased handling charges. It was reported that their rationale was that importers of foreign used cars changed ownership several times before the car had even been landed, requiring repeated changes in documentation. As a result, they increased charges across the board. Protests by the importers and exporters had no effect. Indeed, the Trinidad and Tobago Manufacturers Association wrote a letter to the Shipping Association pointing to chapter 8 of the Revised Treaty of Chaguaramas in which collusion is prohibited per se. However, until a law is declared in Trinidad and Tobago, there is nothing that can be done legally to make the Shipping Association de-cartelize.

3.5.2 Public Transport

The brief enquiries into the Public Transport System showed that there are inefficiencies and, in some cases, serious competition issues. However, time constraints did not allow for an in-depth study of this sector. The following provides a summary of the information gathered.

Bahamas

Public transport is privately owned in the Bahamas, providing a jitney service. Allegations were made that politicians have interests in the jitney system so that changes that are needed are not tackled because they could incur loss of income to the owners. The system is inefficient and needs some restructuring.
Belize

In Belize, a license is issued for a specific route and bus fares are regulated. Public transport on the nation-wide country routes is monopolised by one Company, Novelo Bus Company, which controls 70 to 80 percent of all runs in the country. There are many operators within districts, with some 90 operators within the country in total. The main long distance country wide route was serviced by seven companies. One company, Z line, bought over the other five companies after it had, through predatory pricing and tactics, reduced their profits to an unsustainable point. Z line offered a much cheaper rate and increased the frequency of their service, against the rules.

All companies offering road services must be licensed, and the license is tied to a specific route and specific times. The smaller companies could not compete and had to sell out. In the sale agreement, Z line committed them to abstaining from applying for a license (a road service permit) for the next 15 years, and they sold their existing permit to Z line. At this point, Novelo and Z line were the two competitors. Novelo then bought out Z line and took total control of the route. However, most of the buses were not bought because of their state of disrepair. As a result, there is now a graveyard of buses.

Not long after monopolizing the bus route, Novelo almost doubled the fare, and this caused riots by commuters. After the riots, there was a meeting between Novelo and the Transport Advisory Council at which a decision was made on a maximum fare table which could not be exceeded and the fare chart was to be placed in the bus for customer information. This is not the law as yet, but an agreement with the bus operator. The Transport Advisory Committee is being dismantled and replaced by a Transport Board that is independent of the Minister. It is intended that the Board will consist of persons who have knowledge of the sector who will assist and advise the Minister on policy and rates.

However, the problem is not straightforward, as interviews revealed. When Novelo raised the fares, it is true that it did not get the new rate approved, as is required. However, the fares as allowed by law (Statutory Instrument 120 of 1992) had not been adjusted since 1992, and for years, the buses were issued with permits on which the fares, set in consultation with the Minister, were higher than that allowed by statute written. The road service permit had not been changed in twenty odd years, and for years the buses had been charging a higher fare than was stated on the permits. Novelo then almost doubled that fare. The fact that the fare was not revised was simply negligence on the part of the Transport Authority. At present, the matter of regularizing fares has been left to the new Board. The Transport Division commented that it had limited resources available for monitoring the road service. Meanwhile, Novelo is alleged to be still breaking the rules in terms of the times of running the buses.

The Transport Division felt that the new Board will entertain further licenses applications for the country-wide routes. During the general election campaign, the incumbent party denied that it would provide exclusivity on country-wide routes to the Novelo bus company. It is alleged that this sector is plagued by political largesse and
political interference. Applications should be published in the Gazette for public comment, but this has not been done.

**St. Vincent**

Public transport in St. Vincent is privately owned and available, but not properly rationalised. Consumers have no problem with price but there is a big problem of availability of service. Buses stop running quite early in the evening so that commuters rush to get home as early as possible for fear of being stranded. Buses are packed and the timing of service is not regular. Commuters are also exposed to pick-pocketers on the buses. One interviewee commented that this situation impacts on productivity since business place have to close early because workers must leave.

**Jamaica**

There is a potpourri of public transport available in Jamaica, and fierce competition for business, to the point of being savage and dangerous compared to the other countries studied. There are government owned by-articulated, three compartment buses and air-conditioned stage carriages that operate in some areas. There are licensed competitors using 15-21 seater buses, legal pp red plate taxis, and route taxis commuting between the rural areas and the towns. Then there are the illegal route taxi operators, illegal hackney carriage operators, and private cars operating illegally as taxis.

The conditions of competition are very difficult. The buses must travel at 10-12 km per hour, but the others travel at much faster speeds. Amongst the other competitors, some break the lines and ride the shoulders to get passengers. Drivers are physically abused by passengers if they drive too slowly, so now they drive faster to avoid abuse. Indeed, a bus driver was beaten to death by passengers last year over a minor incident. A bus culture has developed with playing of loud lewd music, and school children are drawn into and negatively affected by it. This phenomenon has also emerged in Trinidad.

In 1997, over concerns about the chaotic and brutal nature of the public transport system, the government decided to bring back civility to the situation by incorporating the JUTC in July 1998. This company was initially licensed to transport school children with 44 buses, but the route was expanded to include the take over of five franchises. However, the company was not developed as a centralised bus system, and so now they must evaluate and rationalise the entire route system. There are inefficiencies because of the truncated manner in which they developed, having franchises added to their portfolio over time. Further, they need to develop expertise in managing a centralised bus system. The company’s main problem is that they are not allowed to charge the economic fare - Ministers decide on the fare, with obligations of social responsibility in consideration. Their income is therefore reduced. They would prefer to be able to charge the economic fare and offer special packages for school children, the disabled, and senior citizens, and day passes allowing the holder to ride anywhere. However, there is also concern that the
FTC would intervene if they charge the economic fare since they are subsidised by the Government.

In the view of the interviewee, it may be better not to remove illegal taxis and bring efficiencies because the social cost may be too much. Many of those taxi drivers are functionally illiterate and may turn to crime if deprived of the income. It may be better, in his view, to subsidise the JUTC and allow them their illegal trade.

3.6 Other Competition Issues

3.6.1 Some Intra-regional Barriers Encountered

Belizean sugar exporters tried to sell *plantation white sugar* to a small importer in Trinidad. Normally, Belize sold raw sugar to Caroni Ltd., the Sugar Refinery, for refining. However, Caroni Ltd. insisted on being the exclusive importers, as a way of ensuring that the flood gates are not opened, and protested. Even the Government of Trinidad and Tobago protested. Now that Caroni Ltd. has been commercialised in its operations, there may be a change of policy.

Exporters of citrus from Belize complained that Grace Kennedy refused Belizean citrus because of the quality, but imported the same quality citrus from the Dominican Republic. Twenty (20) percent of their citrus product is exported to CARICOM (approx. US20 million). The farmers complained about facing non-tariff barriers to entry of their beans, peanuts, beef, fish, shrimp and sugar into CARICOM markets. They said that Jamaicans complain that the beef has too much bone and is not red enough.

3.6.2 Concentrations and Interlocking Directorates

A persistent problem in Caribbean economies is the existence of interlocking directorates. It was argued that this was an issue of size, and that in small economies like St. Vincent, there just is not a sufficient pool of people to spread across the board of directors of companies. However, in larger economies like Trinidad and Jamaica, the problem is widespread, and there is a wider pool from which to draw. A counter argument is that there is a concentration of wealth and the capital holders keep the board of directors of companies under tight control to ensure that there is no erosion of control of capital.

This practice is made more common because businesses in the region are dominated by family firms. There is no Stock Exchange in most of the region, and with the small size of the economy, people who own money know each other and tend to marry each other, further consolidating wealth. Economies of scale are needed for firms in the
economy to be competitive, hence the rationale for consolidation of wealth. It was suggested that the International Accounting System is now mandatory in Jamaica, Trinidad and Tobago and Barbados, and this is increasing transparency since firms now have to make public a lot of information, such as salaries of top executives and shares in other companies. As a result, the existence of interlocking directorates will be revealed. Further empirical work should be done in this area to demonstrate the existence of this phenomenon.

3.6.3 Wider Competition Policy Issues and Arguments for Protection from Foreign Competition

Belizean agriculturalists who were interviewed argued the case for maintaining preferential treatment of sugar, bananas, CBI regimes on fish, citrus, as well as minimising competition within the CARICOM Community market from the Dominican Republic and Costa Rica. They were, indeed, able to exclude fish products from the recently concluded trade agreement with Costa Rica, citrus, bananas (from Costa Rican Agreement but not DR), poultry and swine (except Guyana).

They argued that protecting the domestic market was very important for the small producers of rice, corn, fresh fruits, vegetables, poultry, beef, pork and beans. The economy is self-sufficient in these basic commodities and these sectors generate significant employment. Fifty (50) percent of the population of Belize lives in the rural areas and depends on agriculture for their livelihood. They argued that if they must diversify out of sugar, they must get protection on the new products, that is, fruits and vegetables.

Agriculture, in their view, cannot be seen as an industry, but as a critical socio-economic instrument for maintaining stability, and preventing poverty, crime and rural to urban migration. Agricultural products are highly subsidised in other countries, and there could be disastrous consequences if allowed to be dumped in the Belizean market. This sector contributes 80 percent of domestic export earnings and 30 percent of employment.

There were complaints from importers, however. For instance, they said that 99 percent of the time, when they apply for permits to import agricultural products to support tourism, they cannot get it. By this they meant permits to import temperate fruits (apples, grapes etc.). However, one could argue against this view in that Belize is ensuring that there are backward linkages into the economy from the tourism sector. Unlike many other Caribbean territories, Belize has the land, the capacity, the production infrastructure, and the know how to produce fruits and vegetables to supply the tourism sector.

In Jamaica, arguments were advanced to protect and support the agriculture sector as a social security consideration. At present, this sector is devastated by the impact of the changed regime for bananas and the sugar industry is now threatened. Kingston is already over populated with a large ghetto area permeated by crime and violence.
Further contraction in the agricultural sector will only lead to further rural to urban migration, expanding this overcrowded and violent ghetto.

An example of the need for protection is the experience of Kelly Foods, which bought fruits from the little farmers in the rural areas and juiced them, particularly mangoes. Last year, Grace, the large juice company started importing puree of mango from Columbia and allegedly escaped paying the 85 percent tariff that is supposed to be imposed. Kelly Foods was out-competed, and unable to produce any juice last year, negatively impacting on the small farmers. So, instead of real Jamaican mango juice, the consumers are provided with a screwdriver industry produced juice made from Columbian puree. There is little value added. So on the one hand, the government is trying to encourage an orchard growing industry, and on the other, there is nowhere to process the fruits.

In the interviews in Jamaica, we enquired as to which manufacturing industries have been successful and are able to withstand foreign competition. The juice industry was the leading example given, but there was little knowledge that, in fact, it is the Columbian growers that are benefiting, and that the truly indigenous juice industry has been wiped out. Along with this company, there have been many businesses collapsing over the last five years: tobacco, furniture, footwear and apparel (as a result of NAFTA) amongst them. The companies that have managed to survive competition from imports are those which are linked to cultural tastes, such as Busha Brown Sauces produced by Walker’s Wood. Bigger, a soft drink produced in Jamaica, is also resilient because of consumer preference. Another company that have been resilient is Grace, and this because of its size and the retooling and restructuring that it undertook.

In Belize there were complaints by manufacturers that fiscal incentives given to foreigners were unfair since in some cases they were competing against local firms. They also called for harmonisation of standards because of having to meet different standards in CARICOM and Central America. They warned that Central America was beginning to use Belize as a springboard into the CARICOM market.

The Caribbean Poultry Association is arguing a strong case for continued protection for the regional industry in the hemispheric trade agreement (FTAA) being negotiated, on the grounds of the contribution which this industry is making to food security, employment generation and rural development.

### 3.6.4 The Informal Sector and Governance Issues

There is a substantial informal sector in all CARICOM countries, which in many ways provides a safety net for the disadvantaged in the societies. Higglers have plied the route between Trinidad and Tobago and the small islands and from Jamaica to several areas for decades, and continue to do so. In the last decade, however, a criminal element to the informal sector has emerged, fueled by the drug trade, and which is penetrating the state apparatus, the police force, the party apparatus and the government itself, to the
point where the state is becoming the agent of the criminal sector. Further, the activities of this sector are transnationalized, supported by the use of sophisticated technologies.\textsuperscript{54} In this section, we look mainly at this bandit informal sector in the countries being studied, and the impact their activities are having on the formal sector, and on competition. However, some aspects of the informal sector that are highlighted are benign, such as the street vendors in Belize. The project did not include a study of the informal sector, but we were forced to take it on board because of its impact on competition. This report focuses solely on that aspect of the informal sector, and does not consider the socio-economic dimensions, important as this may be.

**Belize**

Belize has very porous borders and there is a vibrant trade taking place on the borders with Guatemalans and Mexicans. However, it was suggested by Ministry officials that this trade is really a survival strategy, with persons crossing the border with handbags of goods to sell. They set themselves up on the pavements of Belize City. The government has now built stalls that can be rented by these small traders. Their product range is not sufficient to be a threat to the formal traders. Some Belizeans simply cross the border to do their shopping, since it is cheaper on the other side. It was felt that it cost more to attempt to police this trade than to allow it. While there is flour crossing the border, the flour mill has never officially complained, and therefore cannot be badly hurt by this trade, as it is very small.

Businessmen interviewed gave a somewhat different picture. They pointed to the situation in which vendors were bringing in coffee for which Nestle had the agency, and selling the product at a much cheaper price. This was a significant contraband trade, but it has now been reduced. Another area in which there is a big informal trade is used-cars. Concern was expressed that money laundering could be easily facilitated through informal trade channels.

In Belize, there are two kinds of informal traders. First there is the suitcase trader described above. The second is the cartelized traders in Belize City: the East Indians, Chinese, Taiwanese, and Syrians. While these traders operate in the formal sector, they are reputed to use many informal trading strategies. During interviews with various business people, allegations were made that some importers used a variety of means, both legal and illegal to evade the payment of duties. Mention was made of the alleged under-invoicing practiced by certain importers. The under-invoicing is reputed to be done at the Freight forwarding point in Miami. A check with the Customs department revealed, however, that Customs do not accept freight consolidators’ invoices; they require invoices from the goods’ suppliers. An example cited of utilising a loophole in the law was the importation of goods under a development concession. The importer could inflate the size of the duty free order and remain with the excess goods after meeting the client’s (holder of the development concession) requirements.

\textsuperscript{54} Contribution by Professor Clive Thomas at the Evaluation Workshop for this project in St. Vincent and the Grenadines, June 2-4, 2003.
Further claims were made that a fairly significant leakage of goods from the commercial free zone into the free circulation area of the country was occurring. Many of the companies in the free zone are owned by businessmen who import from Panama and China, and operate a world-wide network.

These trading practices have a dual effect on the economy: import duty evasion reduces government revenues and feeds the underground market for foreign currency since foreign exchange permits for import payments will only be approved on the basis of satisfactory documentation, including supplier’s invoices and custom entries. Dishonest traders have to go to the underground market to obtain their foreign currency, increasing demand and thus raising prices in the underground market. Some ethnic businesses are accused as being the biggest culprits. Yet, the honest trader has to delay purchasing because access to foreign currency may be difficult. The Water Company complained about not being able to procure supplies and suggested that businesses import in six month batches. The businesses pointed out in response that the scarcity of foreign currency makes it difficult for them to commit to huge purchases; nor can they commit to warehouse space to keep inventories. The Water Company felt that if it could shop overseas and import its own supplies, this would discipline the local suppliers in terms of choice and availability of products. The problem though is lack of foreign currency to do so.

In Belize, there were numerous complaints about political favouritism in granting of import licenses and permits. Further, there were complaints on the lack of transparency in the award of government procurement contracts. For instance, a small firm was recently given a contract to import and supply to government huge, highly specialised equipment, and government advanced the financing to the supplier. It was claimed that this small firm has no expertise in the product, but the expert supplier was not given an opportunity to quote on the request. It was also alleged that there are firms which get contracts for supply of paper and ink for printing which have no links with the industry or equipment. Indeed, it was asserted during the interviews that businesses that are discriminated against because they operate honestly, or are on the wrong side of the political fence, do not even bother to quote on tenders because, regardless of the quality of their offer, and even if they scale down their profits to the bone, they still would not get the contracts.

In Jamaica, a recent study done by the Planning Institute of Jamaica revealed that approximately 40 percent of GDP is generated by the informal sector. One of the large conglomerate of companies involved in production and distribution gave a disturbing account of activities in the informal sector in Jamaica which involves both money laundering activities and evasion of customs duties. It was alleged that importation of foreign used cars – deportee cars, as they are called – from Japan is one of the prime conduits for money laundering, as is the car parts retail industry. This phenomenon is also experienced in Trinidad and Tobago, so much so that legitimate parts dealers claim that they have a difficult time coping with the competition from artificially low prices. It was asserted that for every case of Johnny Walker Black Label Whiskey sold legally, 10-20 cases are sold illegally. Liquor is allegedly being smuggled from the Cayman Islands.
and other places, and there is a perennial problem at the wharf, with goods being allowed through duty free. Producers complained that there is even stealing of locally made rum from the factory, refilling of rum bottles, which are being sold on the informal market.

The company that produces plastic containers is protected from the illegal traders because it is a bulky item. The quality of the product was upgraded and workers re-trained. But the company had to go the Exim Bank for funding in order to get a reasonable interest rate so as to purchase new equipment. It is interesting that pharmaceutical products are also not prevalent in the informal sector. It is reasoned that this is because it is not highly taxed, so there is little or no money to be made on the black market. The informal trader allegedly gets his/her competitive advantage from the differential cost incurred by the formal traders in paying the custom duties. They allegedly operate by buying off the customs officers and security guards with bribes.

Another phenomenon that was described was the ingenious way in which money was being laundered through banks. The law governing banking requires that a customer must provide information on the source of monies being transacted above US$10,000. Drug dealers allegedly have bypassed this by having a posse of youths go to banks spread across the city to change a sum of money just under the ceiling. These youths are fully equipped with cell phones reporting to a central unit, it is claimed.

The competition is so stiff that the formal sector has taken to “fronting”, that is, they supply goods to the informal sector for sale and give them a commission. This phenomenon was observed in Jamaica, St. Vincent, Belize and Trinidad and Tobago. However, some formal businesses are repulsed by the idea of co-operating with the informal sector.

It is alleged that the situation is so bad that whole containers of goods come through customs without paying duty. The profits are so lucrative that some of these traders who started off as “briefcase men” have grown into large formal businesses.

A car tyre supplier complained that they cannot compete with the informal traders, since their cost price is the price at which the informal traders sell their tyres. The interviewee claimed that the informal traders bring in faulty goods – seconds – and the market is so price-conscious that even purchasing tyres which are not covered by guarantees is not a disincentive, despite the danger to life of using faulty tyres. Appliances are being brought into a central distribution centre in Barbados, it is alleged, and then distributed from there, presumably evading barriers and entering the CARICOM market in this way. The problem affects the manufacture and sale of car parts, the sale of cars, electrical appliances and electronic equipment. According to this interviewee, one can get anything one wants in Jamaica once one is willing to bribe. All licences could be bought, it was alleged. Several businesses have collapsed because of unfair competition from the informal sector, amongst them, Maureen Shoes, Hannahs and Time Store.

Concerns about safety and hygiene were expressed; the case of faulty tyres has already been cited. Food supplies are not controlled for quality, and rejected foods from
the US is imported into Jamaica and Haiti by the informal sector, it is alleged. The interviewee claimed that many vendors do not have health insurance certificates, and of those who do, many buy them. The massive proliferation of vendors is causing a sanitation problem because of lack of public toilet facilities.

All in all, interviewees claimed that law and order have broken down in Jamaica. The Dons have taken over control of sections of the capital and impose their own rule of law. For instance, Highway 2000 was being built by the government, but the project had to be shut down because of the criminal activities of drug dons. It is alleged that for every truckload of materials dropped, the government had to give the bandits US$30. In the end, it was unsustainable and the project came to a stand still, despite the fact that there were 45 armed guards at the project site.

Another example of the power of the Dons was the unsuccessful attempt to construct a new building for the Observer Newspaper, costing US$300 million. An Executive of the newspaper reported that the Don in the area approached the contractor to provide security and initially the company succumbed, but some supplies were going missing, and the “security officers” of the Dons were present at the site with impunity, wearing the T-Shirts of a Minister of Government in whose constituency the project was being done. Eventually, real security was brought in, but the Don’s men beat the security guards within an inch of their life. The project was shut down.

There are serious governance issues that must be addressed. The business sector in Jamaica is calling for the government to impose the rule of law in the country, to find a way of having fair customs tariffs and enforcing them through tackling the problem of rampant corruption amongst customs officers as ports of entry into the country. There was a suggestion about setting up a people’s court to deliver quick and fair justice. Trinidad and Tobago is fast heading down the same path. The choice now seems to be the rule of law or the rule of Dons.

Omar Davis acknowledged the unfair market advantage which the informal sector gets by not paying taxes and duties and said that the government is “… interested in reducing the extent to which those who do not pay formal taxes drive formal organizations out of business.” Davis admitted that there are structural barriers in the way of business persons formalising their operations, and that the process had to be made more convenient for those seeking to register their activities. These involve a ‘tedious and long process of visiting several institutions to obtain appropriate documents.’ (The Daily Observer, October 18, 2003:14).

The informal sector in St. Vincent is made up largely of higglers who go to Trinidad, purchase supplies and bring them in, also allegedly evading duties by using contacts at the Customs, and undersell by under-invoicing. One firm in Trinidad has set itself up to cater to the needs of these vendors, providing services just in time, delivering supplies to the wharf and putting a small mark-up because of the rapid turnover. Apparently a CARICOM Certificate of Origin is provided, even though this should come
from the supplier, not the distributor. The firm is well organised with special shipping agents to process documents quickly.

There are allegations of corruption amongst Customs Officers in St. Vincent. Recently, a whole container of washing machines was brought in with little duties paid on the goods because they were invoiced as washers (for plumbing) and taxed accordingly. Another container went missing, and it is alleged that a bribe of EC$5,000 was paid. The Prime Minister of St. Vincent has been very vocal against the level of corruption in the society, speaking out fearlessly against the “Laziness, criminality and vagabondry” in the society. Containers have gone missing from the port in Trinidad as well, and there are allegations of corruption amongst customs officers there as well.

Clearly, there is an urgent need to address governance issues simultaneously with the establishment of a competition regime.
SECTION 4

THE REGULATED SECTORS

4.1 Utilities

In recognition of the fact that more stringent supervision of the public utilities is required, particularly in the context of privatization, all the countries under study have recently set up Public Utilities Commissions. The purview of these Commissions is to ensure that services rendered by public utilities are satisfactory and that prices are fair and reasonable to consumers.

In all the territories, the Commissions are charged with the responsibility of regulating services in electricity, water and sewerage, and telecommunications, except in St. Lucia and St. Vincent, where the Eastern Caribbean Telecommunications Authority (ECTEL) regulates telecommunications, with National Telecommunication Regulatory Commissions established in each country.

The Commissions are all fledging institutions that have to learn as they do, because changes in technology in the telecom sector are overtaking them. The linking of several OECS countries under one umbrella commission for regulating telecom helps alleviate the capacity constraints.

At the brainstorming session with experts overseeing this study, it was agreed that there should not be primary focus on the regulated sector, except telecom. However, information was gathered on the electricity sector in most countries and the water and sewerage sector in some.

4.1.1 Telecommunications Sector

The Bahamas

The state owned Bahamas Telecommunications Company (BATELCO) began the privatization process in 1998, liberalising Internet services, pager system and trunking radio services. Voice and cellular services are still monopolized, but it is proposed that competition will be introduced in cellular and customer key systems.

BATELCO downsized its staff by 50 percent in 1999 and put a freeze on hiring new staff. The staff size is currently 1,200 persons. Laid-off staff was re-absorbed into jobs in downstream services in telecom that sprung up as a result of deregulation. The privatization process was put on hold pending a decision by the new government. However, the company recognises that it is a bureaucratic dinosaur in the current
technological climate of telecommunications. The PUC has required restructuring of the company within 18 months (end of 2003), separating accounts so that there is no scope for cross subsidizing.

Meanwhile, several companies proceeded to develop their own infrastructure for telecom services because their needs were not being satisfied. As such, in 1997, Barclay Bank laid a submarine cable to the US, which links it with branches throughout the Caribbean. CIBC has dedicated circuits for its business. In the tourist industry, wide band internet services provided by Cable Bahamas facilitate home calling direct for US tourists, using credit cards to link directly to the US operator.

As a result of liberalisation of Internet services, 11 companies applied for and were granted licenses for Internet Services. Only three companies are operational though: Batelco, Bahamas on Line, and Cable Bahamas. Cable Bahamas entered the Internet market in 2000 and soon became very competitive. They claimed that they provide the fastest service and the lowest prices for the bandwidth offered in the region. Prices dropped 75 percent. Data is transported from the Bahamas to the US using a fibre optic system. The company claimed that because of the competitive edge in data transmission, FDI is attracted to the Bahamas. Cable Bahamas emerged as the major competitor to the incumbent. The company’s ownership structure is 20 percent government, 30 percent FDI, and 50 percent public shares.

Batelco argued that because of the geography of the Bahamas, it is difficult to provide services in the Family Islands. More equipment is needed, with greater capital outlay per capita, and maintenance is greater because of the impact of the sea. They complained that as the incumbent, they are obliged to undertake the Universal Service Obligation in their license, to ensure that the family islands are serviced. This is a Public Good issue for the family islands. However, they were not happy with the fact that their competitors are able to pick and choose the profitable markets while the dominant provider is burdened with a more onerous obligation. In their view, the PUC needs to look at revenues of other carriers and make them assume responsibility for part of the public good load. However, provision of telecommunication services via satellite may soon render this argument obsolete, in the view of some interviewees.

On the other hand, the PUC expressed the view that Batelco was charging more than the economic cost for supplying the Family Islands. Local calls within New Providence are free of charge, and higher charges on international calls are used to subsidise local calls. It was suggested that Batelco could instead increase rental charges or charge for local calls. Another view expressed by the PUC is that the Bahamas cannot have unlimited competition because the market can only support a small number of suppliers. As such, the regulator has to limit market entry.

Cable Bahamas has become one of the most controversial suppliers. This company was licensed in 1994 to supply Cable TV. They were granted a monopoly in this market in the form of an exclusive license for 15 years (1994-2009). While there is some competition through consumers obtaining direct satellite dishes (about 10,000
customers), there are some 54,000 that are linked to Cable TV. However, Cable Bahamas argued that Direct TV has no programming license for the Bahamas, only the US, and therefore this competition is unfair, since Cable Bahamas spend a lot of time, effort, and cost negotiating programming rights for the Bahamian market.

There are two issues surrounding the current and proposed activities of Cable Bahamas. The first is a Supreme Court action, initiated by Cable Bahamas against the PUC, which accused them of providing a service outside the limits of their licence, that is, direct fibre optic data service. By this service, the fibre optic cable is brought directly to businesses, linking them. It was first done for the government, and this created a demand from the private sector. Data and cellular services are the fastest growing products in the telecom market. Cable Bahamas is of the view that the PUC needs to strengthen the capacity of their staff. In their view, they are interpreting their own act incorrectly.

The second issue is the signals being sent by Cable Bahamas that once voice services are liberalised, they want to be licensed. However, the PUC and BATELCO both feel that in order to get access to the voice market, Cable Bahamas must give up their monopoly on Cable TV. In fact, Cable Bahamas indicated that they would be willing to do so, even though it may mean a loss of some 20-25 percent of revenue. Obviously they are pretty confident that they can recoup through provision of voice services. They already have the infrastructure in place (fibre optic cable) to provide voice services very competitively.

**Belize**

The telecommunications company, Belize Telecommunications Ltd. (BTL), was privatized since 1987 and was granted a fifteen years exclusive license that expired on 29 December 2002. Government made the first public offering of shares in 1988 when it divested 45 percent of the shares. In 1992, the government further divested another 52.6 percent of its shares, remaining with 2.41 percent, although the Social Security Board (BSSB) held 27.35 percent. In 1999, MCI sold off its shares in the company and ownership of 51.0 percent of the company went into the hands of a privately owned International Business Company (IBC), Carlisle Holdings which is now the major share holder: BSSB now holds 24.2 percent, the Government of Belize, 3.8 percent and small shareholders, 21.0 percent.

Another company approached the Public Utilities Commission for a license to operate national telecommunications services after December 2002. Both BTL and the new company have foreign interests. The new company has an exclusive agreement to provide government with telecommunications services for a fifteen-year period in Belmopan, the seat of government.

In 2002, a new telecommunications act was passed that empowered the Public Utilities Commission (PUC) to regulate rates, protect consumer interests and oversee the
orderly development of this sector. The new Act contains specific provisions to foster greater competition and free market forces, taking into account the need for universal service considerations.

The high profits which BTL have been realizing yearly (operating margins averaged above 45 percent annually) and the company’s slowness in lowering telecommunication rates have fostered the perception of price gouging. Since its privatization in 1988, the company has implemented three tariff changes (1996, 1999 and 2001), the major thrust of which had been to rebalance its tariff to face potential competition after 2002. The last tariff rebalancing conducted in December 2001 raised a major public outcry since basic charges were raised while some call charges were reduced.

BTL’s response was that it needed to increase cost to cover the cost of purchasing the GSM system - US$60 million. Consumers were outraged at this explanation whereby they were expected to pay the full cost, rather than the company taking a loss in the short-term knowing that there will be long-term gains.

In response, an association, (CAPU) was formed and they mobilised signatures of some 65 percent of the population; including the Bishop, petitioning the government to take action. The government then drew up a Statutory Instrument (SI) to stop the new rates and this was taken to court by BTL, who won the first hearing, since the court upheld that the SI was illegal. However, an appeal by the government resulted in a favourable decision in December 2002 by which the SI was upheld. Now, CAPU is demanding compensation for the overcharge during the months when the higher rate was charged. This matter is on appeal in the High Court. Meanwhile, the success of CAPU’s action has led to a move to make it a full-fledged consumer organisation, legally institutionalised.

An interview with BTL revealed several issues that the company had with the way the government is proceeding with liberalization. The company felt that if it was to be competitive it must rebalance rates based on cost. Most of its revenues come from international services, which are quite profitable, whereas some domestic services are being offered at below costs. The company felt that it has, however, been prevented from rebalancing rates.

BTL started the process of modernization in 1999 with the Y2K programme. It created a subsidiary company, Digicell (not related to Digicel), to target the cellular market, and is in the process of phasing out the analog system. However, there is a need to address the problem of how to provide basic telephone access to villages in rural areas. BTL is also providing multimedia services (ADSL), and modernizing with fibre optics and the use of narrow and broadband capacity. The arrival of competition has quickened the pace of modernization. However, the company claimed that the scarcity of US dollars is impacting negatively on their modernization programme. When asked whether there was a special relationship between the Company and the Belize Bank, given that the owners are the same, the spokesman stated that the company does not get any special treatment and in fact seeks to obtain the best offers from the major commercial banks in
BTL expressed the concern that the costs involved in the provision of universal service – some 275 rural communities exist – should be equitably shared by all licensees. The PUC, in fact, has not yet passed any regulations specifying the manner in which licensees are to meet the universal service obligations.

BTL was of the view that the liberalization of all aspects of telecommunications in Belize was not necessarily a good thing for Belize. In their view, the Jamaican example of a phased liberalization should have been followed. It is interesting that in Jamaica, competitors to the incumbent felt that a phased approach was better than immediate liberalization when in a monopoly situation, since firms would not be prepared properly to enter the market and this would lead to a situation where there may be many new entrants with poor quality service. BTL felt that it was extremely important that the PUC remains independent of political interference to ensure a level playing field.

Intelco, meanwhile, had planned to provide cellular services by the end of April and all other services by the end of June 2003. They have not fully met this target, however. They will be using totally third generation technology (IP centric system), which would service voice, data and multimedia. They plan to offer cellular, data, video, video conferencing services. Their reasoning is that Belize is a small market, so they must have a diversified product if they are to make money. They want to make Belize the hub for Central America, with a fibre optic system and submarine cable that connects Belize to the US and other countries. They are at present deploying the fibre optics system. Their infrastructure will allow them to offer services to other countries and manage the service from Belize. They intend to be highly automated.

In their view, the incumbent is weighed down by old technology, contracts that oblige them to have a floor on the international prices they charge, and high cost of staff. They claim that the incumbent is trying to avoid giving them interconnection, and this issue is now with the PUC. Intelco also feels that the PUC is weak and overburdened, and that they should strengthen their staff. They are still struggling to get established to develop regulations. In Intelco’s view, the PUC is not fully using their power to enforce competition, they are too flexible, and they must require that both the incumbent and the new entrant meet quality parameters of service.

When interviewed, the PUC agreed that they are understaffed and under a lot of pressure to cope with the rapidly changing situation in telecommunications. They have been in a difficult situation regarding telecom rates, and have put a cap on the existing rate until June. They are hoping that by then BTL would be in a position to support a rate change. They claim that they have been independent from political interference so far.

It is well known in Belize that the majority of shareholders in Intelco are supporters of the current administration, and there are suspected issues of favouritism in the government’s treatment of Intelco. The sequence of events that led to the contract for providing the service in Belmopan is interesting. Initially, there was a need for a telephone service in the Export Processing Zone, which BTL was unable to provide, and so Intelco got a license to operate within the EPZs. Subsequently, there was an agreement
to provide a PBX service to the government offices in Belmopan for 15 years with extensions in all offices. BTL lines were linked into the PBX for trunk calls. This contract was not put out for tender.

**Jamaica**

In Jamaica, the telecommunication sector has undergone significant changes over the past two years and was fully liberalized in March 2003. Since February 1993 and up to 2001, Cable and Wireless Jamaica Ltd., a private company had a monopoly in the provision of telephone services in Jamaica. Prior to 1993 the state-owned company, Telecommunications of Jamaica Limited, provided telephone services.

The Telecommunications Act (2000) provides the legal basis for the introduction of competition in the telecommunications sector. The Act establishes the tariff and economic regulatory functions for the Office of Utilities Regulation (OUR) over this sector. The OUR regulatory functions include:

- determining which carrier or service provider is dominant (in consultation with the FTC);
- prescribing a system of regulatory accounts for dominant carriers and service providers;
- arbitrating pre-contract interconnection disputes between the incumbent and entrants; and
- assessing the Reference Interconnection Offer (RIO).

The OUR is also involve in price control. Since 1988, C&WJ has been regulated by the rate of return method with the permitted rate of return on shareholders’ equity of 17.5 - 20 percent. The Telecommunications Act (2000) provides for the implementation of price caps on the first anniversary of the Act. Under the new pricing regime, the company is permitted to change its price by the difference between the rate of inflation and an efficiency factor called “X.”

The telecommunications sector underwent a phased liberalization process as follows:-

**Phase I** (1st March 2000 to 31st August 2001) - the markets for the following services were opened up to competition: domestic mobile services; data services, such as internet service provision, using the incumbent’s facilities; provision of single line and multi-line customer premises equipment; and wholesaling of the incumbent’s international switched voice minutes.
**Phase II** (1st September 2001 to 28th February, 2003) - the markets for the following services were open to competition: domestic voice facilities and services; resale of the incumbent’s switched domestic voice minutes; and Internet access over facilities of subscriber television.

**Phase III** (beginning 1st March 2003) - all markets were opened to competition.

The telecommunications company in Jamaica was owned by a private company, Continental, until the mid-1970s when it was nationalised. In the 1980s, Cable and Wireless was brought in on a management contract and eventually C&W brought the majority of shares in the company. In the negotiations, C&W extracted rights and long-term facilities that gave them a monopoly not only on existing products, but technology to be invented. The government was strapped for cash, needed foreign exchange, possibly to service external debt and for other budgetary needs. Additionally, the IMF had imposed a restriction on borrowing by State-Owned Enterprises in which the government had 50 percent or more shares. Once divested of Government’s shares to below 50 percent, the company could borrow to invest in technological updating.

The C&W monopoly arrangement prohibited customers from purchasing the phone instrument from external sources and connecting it. Rather, it had to be rented from the company. C&W did not police this situation because it was too costly and unwieldy. However, it was alleged that they did call and threaten people when they were aware of this practice.

In the early 1990s, foreign exchange was in short supply and C&W also had difficulty accessing foreign exchange to purchase equipment. If one applied to C&W for a PBX system, C&W could claim that it was affected by the foreign exchange crunch, in which case the customer would be advised to go ahead and purchase the equipment. The cost could be as high as US$5,000. But C&W then required the customer to sell the equipment to them for $1 and lease the equipment back from them.

Info-channel made the first legal challenge to C&W. According to the interviewee, this company decided to test the monopoly by bringing in a PBX system and connecting it to C&W’s line. C&W issued many threats, letters and on one occasion, physically disconnected the system at the company’s office. However, Info-channel called the television station, which filmed and aired the incident at prime time, to the detriment of C&W’s public image. The manager of Info Channel reconnected the system within half an hour of disconnection. At that point, C&W took him to court, charging him with trespassing on their network.

At the time the company had six telephone lines, and C&W was asked to give them a hunt grouping, whereby if one line is busy, the call would automatically go to another line. They were told that they had to apply for a PBX. The company wrote to the Fair
Trading Commission (FTC) complaining and pointing out that the hunting feature had nothing to do with a PBX, and that C&W was using dishonest reasoning to deny the service. The FTC intervened, and C&W relented without much resistance, presumably because they knew that they were in the wrong. When the new telecommunications act came out in 2000, C&W dropped the initial charge against Info-channel.

Another case that was taken to court in Jamaica was over the question whether C&W’s monopoly extended to voice over Internet Protocol (IP). This is a gray area, and the question is whether the transmission is data or voice. C&W argued that it is voice. Info-channel argued that it is data, since the process of transmission is different. With voice, an electrical energy is transmitted through the central office of the telephone company and reconverted back to voice. Voice over IP, however, is data transmission since it is cut up into packets, and the route may vary far and wide. It is then re-assembled into voice. The Regulator (OUR) sided with C&W, but the Supreme Court ruled otherwise in January. The Court ruled that the C&W license was based on the Telecommunications Act of 1980, which covered voice over copper wire only. Therefore, the monopoly did not cover voice communicated through data transmission. A further issue is still outstanding. Intro-channel sued C&W and the OUR for compensation for loss of revenue because the company was prevented from supplying the service. Like BTL in Belize, C&W is burdened by an outmoded infrastructure and technology, but the phased liberalisation allowed them time to restructure.

A new company, Go Tell, has started providing service using wireless technology. Their rates are higher than C&W but they are targeting areas that C&W did not include in their service. Interestingly, C&W has not been doing any major investment in the market. Dicicel, by contrast, has sold approximately 800,000 phones in that market compared to C&W’s 200,000.

According to the OUR, the FTC played an important role in chipping away at the C&W monopoly. They were instrumental in effecting the change in policy whereby customers could buy their own instrument, except the PBX. The FTC also prevented C&W from putting an extra charge on Internet producers by informing C&W that only the Minister could approve an extra rate. There was also an issue which causes many consumers to complain to the FTC against C&W. They put voice mail on people’s phone without the consumer applying for the service, with the onus being placed on the consumer to tell them to remove it. They also introduced a premium service for information (weather etc.) and charged a very high cost per minute. After the first wave of huge bills, there were protests from account holders who found that maids and children were spending a long time on the phone listening to the information. They refused to pay bills and lodged a complaint with the FTC. C&W was required to effect several changes in the service.

Info-channel was not as generous towards the FTC. In their view, the FTC did not do a good job on their cases. There was not a quick response, primarily because the FTC is under-resourced and did not have the technical staff to deal with the issues. Rather, they have been dealing primarily in the area of consumer protection. In their view, there
is a need for a broader organization which can pool resources to respond to technical issues. They felt that over the last two years, the FTC had declined in effectiveness, and it was thought that it lacked leadership.

The OUR questioned whether the consumer is really better off with liberalization since cross-subsidisation between international calls and local calls has been removed, and only consumers making international calls are better off. The fixed network is showing a decline in customers who are moving to pre-paid mobile on which incoming calls are free. This is leading to increases in the cost of rental of land lines and the calling rate. Further, with the drop in rates for international calls, there has been an increase in outgoing calls and this is drawing down on scarce foreign exchange. It is becoming cheaper to call internationally than locally, in Jamaica.

4.1.2 The Telecommunication Sector in the OECS

By the early 90s, policy makers of the OECS sub-region were convinced that there was an opportunity for development strategies to be linked with new technologies in the telecommunication sector. This sector was experiencing phenomenal growth globally and presented a real opportunity for the region to diversify their economies, while partaking in the industry of the present and the future. It was felt that the informatics industry in particular had the capacity to absorb large numbers of the unemployed. Around this time the governments of the Windward Islands were faced with the prospects of losing preferential treatment on the European markets for bananas. The economic fallout from this posed a challenge and alternative sources of foreign exchange needed to be identified urgently. This was part of the context in which these opportunities in the telecommunication sector were pursued.

Also in the early 90s, the governments of Dominica, Grenada, St. Kitts & Nevis, St. Lucia and St. Vincent & the Grenadines, through the Eastern Caribbean Investment Promotion Service (ECIPS) and with sponsorship from a World Bank grant, commissioned a study entitled ‘Informatics in the Eastern Caribbean… Building a New Export Industry’. The Chicago Group Inc. was granted the consultancy after submitting a proposal in 1994.

The Chicago Group in their report, referred to an earlier study commissioned by the World Bank entitled ‘Opening the Information Industry Market Place: Opportunities for Eastern Caribbean Exports’. The key findings in this report were as follows:

- Information services jobs can be created in the OECS countries.
- Focused action to reduce telecommunications prices and to aggressively promote information services capabilities can yield near-term results in employment and export earnings.
• The OECS have favourable characteristics for competing in the telecommunications-oriented information services export business – stability, favourable labour cost, an English speaking work force and time zone affinities with North America and Western Europe.

The report also identified the major constraints as follows:

• International Telecommunication services (dial up and dedicated) are high priced.

• The investment approval process in each country may currently present some obstacles.

• Skills transfer may be required to take advantage of the opportunity.

• Promotional visibility of the OECS countries is low by comparison to others currently operating in the sector.

It was clear that, given the results of the study, the telecommunication sector represents a very good opportunity for creating employment and earning foreign exchange.

The Chicago Group’s proposal claims that low cost telecommunication service has proved to be a major keystone to economic development of emerging countries. They further claim that it is clearly demonstrated that there is a direct link between the economic well-being of countries and the necessity to secure effective and inexpensive communication.

The heart of the problem faced by the OECS countries is captured in the following quote from the Chicago Group proposal:

‘... there is a general consensus that were the rates for data traffic lower than at present, the opportunity for information services would be more realistic. Lower telecommunication rates for data service would increase the possibility of attracting overseas investors to these countries, aid in alleviating unemployment, provide additional foreign exchange, and generally improve the standard of living of the people of these countries’

Some strategy had to be put in place to resolve the problem of high unattractive telecommunication rates. This was probably what most influenced the move to liberalize the market since, after much discussion with the monopoly provider, this issue was still unresolved. At the same time multilateral financial institutions like the World Bank was very active in promoting liberalization of the telecommunication market and telecommunication become the subject of multilateral trade negotiations. All over the
world the telecommunication market was being liberalized and the monopoly provider found it difficult to resist the tide of change.

The OECS countries involved in the 1994 Chicago Group proposal began putting the necessary ingredients in place that were recommended by the group to create an enabling environment for development of the informatics industry.

In 1996 Wolf, Arnold, and Cardoso, P.C., retained by ECIPS with a World Bank grant to develop model legislation for encouraging the development of the information service sector, delivered their final report on the draft OECS model legislation. The model bill was titled ‘The Information Services Investment Facilitating Bill’.

The next component of the enabling environment was the liberalization of the telecommunication sector. Again, sponsored by a World Bank grant, the relevant OECS countries made the decision to set up a common regulatory framework designed to ensure the introduction of competition into the market and the end of the monopoly that existed at the time.

Initially, only one regional telecommunication regulatory agency was envisaged. However, as a result of reluctance on the part the politicians to cede some sovereignty, necessary to allow the agency to properly function, the concept of the National Telecommunication Regulatory Commission (NTRC) was then developed.

Any proper telecommunication regulatory agency must have built- in expertise in several areas that include Law, Economics and Engineering. All of the counties cannot afford the high quality of human resource needed so these are provided through ECTEL on a shared cost basis. Most of the regulatory issues at the national level are handled by the NTRCs with support from ECTEL. ECTEL also reviews all technical aspects of the regulatory process and must recommend all Individual License awards before the Minister can sign the license. The NTRCs handle all of the Class Licenses. The regulatory mechanism was established through a Treaty and a specific set of laws and regulations in each participating country.

Currently, the model legislation for facilitating investment in the telecommunication sector is still on the shelf in most of the countries. This legislation is important in attracting investment in the sector, especially down stream or value added telecommunication service. Also, not much effort beyond ad hoc is made to promote investment in the sector.

The resident monopoly holder hindered the process of liberalization. There was a lot of resistance on their part to the introduction of competition in the telecommunication market. All this was a vain effort to try to hold on to the exclusive license for as long as possible or extracting endless concessions and influence in designing the regulatory regime, in exchange for giving up their exclusivity agreements (they had some success in the latter). However, they could not ignore the international trends in the telecommunication sector.
The process of liberalization is far from complete. All of the regulations are not in place and there is urgent need to modify some in order to make regulation of the sector more effective. Many of the divisions, and certainly most of the important decisions by the NTRCs and ECTEL, are consistently challenged by the monopoly provider and a number of cases are still before the court. The way the regulations were designed, even a seemingly simple task of declaring a monopoly provider as dominant had a complicated process that included public consultations and consultations on the consultation process. In St. Vincent and the Grenadines, the NTRC has yet to declare the dominant provider dominant. This is important since most of the power to regulate the monopoly is contingent on them being first declared dominant.

In all of the relevant countries, licenses have been granted for a wide range of telecommunication services, including fixed line, mobile, and value added services such as Internet services. AT&T and Digicel have entered the mobile telephone market after being granted licenses. Both Digicel and AT&T begun offering services.

Digicel has been very aggressive price wise and in terms of promotion and is offering GSM technology which is much more advanced than the TDMA technology that C&W is offering (C&W is also rolling out GSM technology, forced to by competition). C&W has been forced to cut prices dramatically for mobile handsets, which moved from around $400.00EC to $40.00 EC. Call rates have dramatically fallen also. Mobile technology, that once could only be afforded by the well-to-do, are now in the hands of primary school children in large numbers, and the rates are low enough that people are no longer afraid to actually make mobile telephone calls for fear of the bill.

St. Lucia

In St. Lucia, the sole telecommunications company, Cable & Wireless West-Indies Ltd., is a wholly owned subsidiary of the British telecommunications giant Cable & Wireless PLC. However, over the last three years, intense negotiations between the government and Cable & Wireless have resulted in a new era of competition in the telecommunications market, with licenses for two new telecommunications operators, (Digicel & AT&T), being granted in 2002. According to the Agreement between the OECS Heads of Government and C&W, the government has the right to issue any license it may choose to do. However, C&W understands otherwise, and the interpretation of the agreement is now being discussed in Court. As a result of this liberalization, all member states of ECTEL have issued license to several companies including Digicel and AT&T.

The telecommunications sector is now regulated by two new entities, namely the National Telecommunications Regulatory Commission (at the domestic level) and the Eastern Caribbean Telecommunications Authority (ECTEL), which is headquartered in St. Lucia, with the mandate of regulating the telecommunications industries of Dominica, Grenada, St. Kitts & Nevis, St. Lucia, and St. Vincent & the Grenadines. Interestingly, the Antiguan government chose not to bring its telecommunication company under ECTAL possibly because it is owned by the government and bringing in valuable revenues. ECTEL is presiding over the phased-out liberalization of the
the telecommunications industry in these five sub-regional countries. Cable & Wireless nevertheless remains the dominant provider of telecommunications services, and in St. Lucia is also the principal cable television operator.

Prior to liberalization, service was poor and rates were high and this was a disincentive to investment. The introduction of Digicel caused a tremendous reaction, with 1,000 cell phones sold in four days at the end of April when they launched their service. They were even offering a discount of ECS$50 if purchasers dumped their C&W cell phone in a bin provided for that purpose.

Cable and Wireless is accused of having engaged in delaying tactics to bar the new entrant, by not finalizing the interconnection agreement. The government and ECTEL had to get involved before the matter was resolved. CW tried to flood the market with cell phones before DIGICEL came in. Their sales went from 17,000 to 55,000 in four months. They started using incentives they had never used before. They have now launched billing by the second, rather than the minute. Indeed, the threat of competition led to about 50 percent reduction in rates in less than two years and a further 10 percent reduction is being considered.

It is argued that consumers will benefit with the entry of Digicel and AT&T with lower cost of their initial phone, international and local rates would be cheaper, more features will be available and more choice provided. The trend is increasingly towards use of mobile phones so that fixed line phones will diminish in importance. However, business depends on fixed lines, so they are captive customers. C&W wants to reduce international rates and increase rental cost.

On the issue of whether there should be a phased approach to liberalization or a shock approach, ECTEL was in favour of the latter. In their view, the incumbent will always argue that such an approach would lead to chaos. However, in interviews in Jamaica, the view of all parties, incumbent and competitors, was that the phased approach was better, as it allowed competitors to be better prepared to offer quality services.

**St. Vincent and the Grenadines**

Telecommunications and postal services are an important and expanding sub-sector, accounting for some 10.5 percent of GDP in 1999. Until April 2001, Cable and Wireless (St. Vincent and the Grenadines), Ltd. had a monopoly on fixed and cellular telephony, as well as in the provision of Internet services. Although Cable and Wireless’ monopoly was, in principle, only in the area of fixed telephony, it was the sole provider of most telecommunications services. Tariffs were high by international standards, hindering the competitiveness of a number of industries and service providers, including tourism operators. Cable and Wireless’ monopoly rights were terminated in October 2000, when St. Vincent and the Grenadines and four other OECS countries put in place the Eastern Caribbean Telecommunications Authority (ECTEL), to act as regulator at OECS level, and a National Telecommunications Commission was created in parallel. The market was given a transition period of six months to be completely liberalized.
The main legislation regulating the telecommunications sector is the Telecommunications Act No. 1 of 2001, which repealed the Radio Communications Services Act No. 19 of 1988, as amended. The Act No. 1 of 2001 contains the Treaty establishing ECTEL and makes the Minister in charge of telecommunications responsible for granting licenses and telecommunications policy in St. Vincent and the Grenadines. The Minister is advised by a National Telecommunications Regulatory Commission, which is responsible for domestic technical regulations, for the regulation of tariffs of telecommunications services, for the review of license applications, and for compliance with international obligations in the area of telecommunications. The provision of telecommunications services and the operation of networks require an individual or class license, to be granted taking into account universal service at affordable prices, and enhancement of competition criteria. The Commission must approve interconnection agreements. All licenses granted under the new policy are non-exclusive. The Commission will review disputes between licensees.

**Trinidad and Tobago**

In Trinidad, a monopoly still exists, with Telecommunications Services of Trinidad and Tobago (TSTT) controlling the market. At present, the familiar story is unfolding of the incumbent claiming that services provided by new entrants are illegal. Recent newspaper advertisements claimed that TSTT has exclusive rights to provide a telephone service and operate a telephone system in Trinidad and Tobago, and is the sole licenses for exchange of international telecommunications traffic in and out of Trinidad and Tobago. The advertisement points out that TSTT has no contractual arrangement with Net2Phone, as required by international telecommunication regulations, that will allow Net2Phone traffic into its network. It also points out that Yap Jack or any similar device which facilitates communication through TSTT’s network is illegal, and it is a criminal offence, to use providers of international calls except TSTT.

A Telecommunications Board has been appointed and the Executive Director is now been chosen. Thirty-five (35) positions have to be filled. It will have responsibility for all aspects of telecommunications services, while at present the Regulatory Industries Commission (RIC) only regulates land lines. There has been an administrative decision to liberalise this sector, although TSTT has a contractual time period of guaranteed monopoly.

An issue that has arisen is the request by Cable TV to provide a telephony service. The matter was referred to the RIC and a study was conducted, the results of which have been sent to the Minister. The results have not yet been made public. At present, Cable TV is not regulated. The most recent announcement is that several providers of telecommunication services will enter the market by early 2004.
4.1.3 Electricity Sector

The Bahamas

The government wholly owns the Bahamas Electricity Corporation. Executives at the Bahamas Electrical Corporation (BEC) were definitely of the view that privatization should not proceed on the same assumptions as apply to electricity providers in large economies. They argued that competition in a large economy is not a problem because there is scope for many large power stations and large transmission and distribution systems servicing a large customer base. Economies of scale would provide efficiencies. In the Bahamas, however, the provider has to service 16 major islands stretching over some 700 miles and which are sparsely populated in some cases with only a few thousand persons. Grand Bahama, Inagua and Spanish Wells are excluded because of availability and reliability of supply is adequate. The Grand Bahama Port Authority provides electricity for the whole island.

They pointed out that the cost of supplying electricity across water is more expensive than over an equivalent land space, because more small power stations are required and one big transmission and distribution system. It involves laying submarine cables, which may not be cost effective in some places. Further, wear and tear on the equipment is much more severe because of sea blast. Yet, a uniform tariff is charged, so that remote areas pay the same rate as consumers in Nassau. In other words, the supply of electricity to the Family Islands is subsidized, and this is necessary to promote development by providing adequate infrastructure. They argued that government intervention is absolutely necessary in this sector. Privatization would lead to neglect of the Family Islands, or enormously high and unsustainable charges if full cost is applied.

The BEC has been undergoing restructuring to create more efficiency. The staff was reduced from 1,200 to 1,000. Since the mid 1990s, the government intended to privatize the company and a pre-feasibility study was done to indicate what needed to be done to prepare for privatization. The company has begun to outsource some activities. For instance, routine maintenance work has been contracted out, and foreign companies are brought in for major jobs. The company is supervised by the Public Utilities Commission (PUC) to ensure that is operations are in the interest of the country. The PUC, in fact, supported the view that there is little scope for competition in this sector.

Belize

The majority shareholder in the electricity company in Belize is a Canadian company. The divestment of government shares occurred in 1992 and 1999. At present, Fortis and Fortis owns 67.6 percent of shares. Belize Social Security Board – 26.3 percent and small shareholders – 6.1 percent

While the company, Belize Electricity Limited (BEL), has not been given an exclusive license, ‘the small and dispersed nature of the population coupled with high
costs of network expansion lend themselves to a natural monopoly. The license provided to BEL allows specifically for other generators and distributors of electricity. Although the law provides open access to the transmission network, BEL is the only provider.

The general perception is that the cost of electricity is high, and this has been and continues to be a major deterrent to industrial development. During the 1990s, the company implemented several cost reduction measures, including a special rate for low-income households and an industrial off-peak rate. The result has been an extremely modest but steady decline in the average rate for a kilowatt hour (kwh). Since 1993/94, the price has fallen from US$0.1933/kwh to US$0.177/kwh in 1999/2000.

The PUC admitted that electricity rates are higher in Belize than in most Central American countries, where it was felt that electricity might be subsidized. Lack of economies of scale is a factor. For instance, Puerto Rico uses a 250 mgw gas turbine while Belize uses a 25 mgw turbine, since the size of the population is so small.

There are several power generation producers, so there is competition in production, not delivery. However, the major supplier, BECOL, is 95 percent owned by Fortis, the major shareholder in BEL. BECOL produces hydroelectricity and sells to BEL for distribution. BEL also purchase power from a Mexican Company, CFE. Purchases of any new generation must be done by inviting bids and securing the approval of the PUC. Other producers are interested in supplying BEL, but they require a long-term contract because the project would be capital intensive, but BEL cannot give any long-term contracts. In early 2002, BEL issued a Request for Proposals (RFP) for 18 mega-watts of generation, and seven bidders responded including one for a bagasse to energy facility.

Concern was expressed by BEL that the model of decoupling and having competition in generation has not worked in California, Ontario and other large economies. The contract with Mexico for the provision of 25 mgw is a firm contract with price. Any supply over 25 mgw has to be negotiated, including the price. However, CFE sent up the price and is now unable to supply more because growth in Mexico has led to their surpluses being absorbed. The constitution of Mexico forbids the privatization of electricity or oil, and big investors in this sector are unwilling to come into Mexico because of this law. The interviewee was of the view that competition in generation is not suitable for small markets. Rather, electricity rate reduction should come through regulation to reduce cost and improve service.

The cost of electricity has been reduced from an overall average of 44¢ per kwh in 1981 to 34½¢ per kwh now. The plan is to reduce the rate to 31.5 cents by 2004. At present, different rates are offered for residential, commercial, and industrial customers, and a further breakdown for street lights, and a social rate which is offered to customers who use from zero (0) kwh. This would allow the use of 3 light bulbs, a small fridge and a television. This now embraces about 8,000 customers but BEL intends to extend the social rate so as to capture 20,000 out of its 60,000 customer base. The commercial sliding rate is 40¢ per kwh to 33¢ (average 38¢ with industrial time of use rates at 40¢
during peak hours and 24¢ late at nights. The more a company uses, the less it pays. Streetlights cost 40¢ per kwh, residential cost is 31¢ - 40¢ / over 34¢.

A project to build a new dam in the Chalilio Valley has caused an environmentalist protest and the group, Belize Alliance of Conservation NGOs, has applied for an injunction to stop the project and threatens to take the PUC to court if it approves of the project. They had previously taken the PUC and the Environmental Authority to Court and lost both cases. An American NGO, the Natural Resource Defense Council (NRDC) of Washington is providing the resources and research, and the Belizean NGO is seen as being used as a front in Belize, and is being manipulated by NRDC. The hydro-electricity plant will solve Belize’s problem of generation of electricity, in the view of BEL, and they argued that environmental assessments were done, and the original site was changed to a less ideal site because nesting parrots would have been affected. The present site poses no major environmental impact on animal life, according to BEL.

Jamaica

The Jamaica Public Service Company Ltd. (JPSCo.) is now a private company since the government sold majority shareholding to Mirant Corporation, an American Company. Following the sale of JPSCo. in 2001, the Minister exempted the activities of the company from the provisions of the Fair Commission Act. The Electric Lighting Act (1890) regulates the electricity industry but does not contain guidelines regarding prices. The OUR does not at present regulate electricity prices, though in its Annual Report (2000) the agency reported that “the review and modernization of the primary and secondary legislation specific to the electricity and water sectors should be the next order of priority to ensure that the legal frameworks for governing and regulating these sectors are consistent with the Government’s official policy for each sector.”

The OUR in Jamaica is presently overseeing the decoupling of generation from distribution, and this process is supposed to be completed by 2004.

St. Lucia

Given the small size of the St. Lucian market, the utility companies lend themselves to natural monopolies. The electricity company, LUCEL, is a publicly held company with the biggest shareholder, Commonwealth Development Corporation (CDC) of the UK, holding 49 percent of the shares. The government, through the City Council and the National Insurance Corporation, owns 45 percent of the shares and six percent of the shares were offered to the public in the early 1990s. CDC also has interests in St. Vincent and the Grenadines.

CDC has a management contract and paid themselves thousands of dollars, and in the view of some interviewees, did very little, so much so that at the last annual general meeting, LUCEL was asked to terminate the contract and a local management team is now in place. However, the constitution of the Board reflects the major shareholders. The
company operates independently of government. Recently, legislation was passed to restrict shareholding in order to prevent CDC from obtaining 51 percent of shares.

LUCELEC was given a guaranteed rate of return schedule that is enshrined in the revised 1994 Act, and which expires in 2049. This special privilege was tied to the obligation to build a new power plant, which was fulfilled in the early 1990s. The new plant is safe, and well functioning so that there have been no power outages. LUCELEC has a special agreement with the government to supply rural areas and street lighting.

From a technical point of view, the company is well run, though there are serious customer relation problems. The company has taken steps to deal with this problem. One view was that the company is profitable because there is a cadre of good senior staff and the company is well focused. A recent evaluation by Professor Julian supports this view.

However, interviewees in the private sector disagreed with this view, offering instead an explanation of the high rates in terms of the company’s guaranteed rate of return. Consumers resent the surcharge, interpreting it as an extra charge, rather than compensation for the fluctuation in the price of oil. In their view, the company has no incentive to be efficient. This was the view offered by the beer industry, which felt that electricity costs are about 40 percent higher than that paid by their competitors in the region. The company could generate its own electricity, given the amount it uses, but if it does so, it cannot then be guaranteed that it will get a backup supply from LUCELEC if needed. Poultry producers and meat importers also protested that the price of electricity was too high.

LUCELEC gave great difficulty in consenting to be interviewed, so that in the end the effort to speak with them was abandoned. The PUC offered a view that the Electricity Act should be rescinded and new investment invited into the sector, with decoupling of generation from distribution. At present CDC controls both generation and distribution. However, there is a conflict of interest since the government still owns a large share of the company, and receives a healthy dividend. It was felt that LUCELEC has resisted change in technology, has done little research on alternative sources of energy, though they are starting to use wind generation. Decoupling would allow new providers to enter the market, using renewable sources of energy. At present there is interest by a German company to investigate the viability of geo-thermal deposits from volcanic activity as a source of energy.

According to a study done under the Caribbean Programme for Economic Competitiveness, the cost of electricity to small communities in the Caribbean is prohibitive because of the topography of islands such as Grenada, Dominica, St. Lucia and St. Vincent. In the case of the Bahamas, the geographic spread across oceanic spaces coupled with the small size of population scattered across the archipelago makes the cost of supplying electricity prohibitive.
**Trinidad and Tobago**

In Trinidad and Tobago, the generation and distribution of power have been decoupled, with Trinidad and Tobago Electricity Corporation, the incumbent, responsible for distribution while Powergen and Incogen are responsible for generation of electricity. Essentially, though, there is no competition because of the contractual arrangements with the supplier. According to the Regulated Industries Commission (RIC), nothing could be done about this for another 10 years.

**4.1.4 Water Sector**

**Belize**

The Belize Water Supply Ltd. (BWSL) is majority owned by a European company Cascal B.V., the government company, Water and Sewerage Authority (WASA), having been privatized in March 2001. Cascal owns 82.7 percent of the shares, while the Belize Social Security Board owns 10 percent and small shareholders own 7.3 percent.

Like BEL, this company was not given an exclusive license, but the capital-intensive nature of its business renders it a natural monopoly. In addition, the company has the first option of providing service to a new area.

Since its privatization, the company attempted to raise tariffs. Speculation is that public outcry has to date kept the prices stable.

In an interview with BWSL management, they pointed to the extent of restructuring they have had to do since taking over the company in 2001. They claimed that they found a lot of wastage: overstaffing, materials and lax procedures in control, including discipline and control issues in accounting. Further, accounting was done manually and there were many pitfalls in the billing system. Billing was done manually outside of Belize City. They have now introduced accounting software and are about to introduce a computerized billing system operating on a wide area network system and controlled at central office. Staff has been downsized from 300 plus to 200, and personnel have been changed.

The interviewee stated that they inherited a massive debt of B$52 million which was a major problem. They had to borrow to repay the debt. They also inherited an old infrastructure. WASA had started a programme of installing new infrastructure, and they are continuing this process. Another problem they face is the lack of economies of scale, as Belize is a country the size of Wales with a population compared to a small town in Wales. This increases the cost of infrastructure and service. The lack of access to foreign exchange makes it doubly difficult to make progress in restructuring and upgrading equipment. At the time of the interview, the company needed a piece of equipment from the US, but was unable to procure it until foreign exchange became available, according to the interviewee. This was costing the business in terms of efficiency. Because of lack
of foreign exchange, suppliers do not keep large inventories so prices change constantly and the company has to shop around every time it needs small supplies, such as paper.

An interview with the PUC revealed that there are no complaints about the rates. They are relatively low, although sometimes the readings are not accurate because air gets into the transmission system, which should have had air valves. This is being rectified currently. However, the PUC anticipates an increase in rates because of the cost being incurred to effect improvements. There is no plan to unbundle the water service, since the conventional wisdom is that it cannot be unbundled.

**St. Lucia**

The Water and Sewerage Company (WASCO) of St. Lucia is government owned and operating at a loss, so that government transfers are used to pay salaries and provide loans, hemorrhaging the Treasure. A dam was built costing US$131 million, with money provided by the Kuwait regime. However, attention was not paid to the distribution aspect. A tariff increase is needed to cover the cost of water, but it is politically inexpedient to do so. The view was expressed that WASCO has no credibility on the money market, and no buyers are interested.

The World Bank and the Caribbean Development Bank funded a project to develop regulation and review the Water Supply Act to improve operational efficiency and infrastructure. A Memorandum of Understanding was signed by the Prime Minister with a UK company for the management contract, but the WASCO Board rejected it. All in all, the supply of water is a highly politicized issue in St. Lucia.

**St. Vincent**

The situation in St. Vincent is remarkably different. The Water Company is government owned, but operates on a commercial basis and without political interferences. The company has shown a real surplus over the last fifteen years and does not rely on government subsidy. Instead, they subsidize the government because they do not charge government offices the real cost. Water rates were constant for 17 years, but were increased by 10 percent last year.

According to the interviewee, the company has a consistent policy of ensuring that every customer pays, and anyone who does not pay is subjected to disconnection, even if the culprit is a Minister of Government. Government has to pay for the social component of their service, such as roadside standpipes which are metered.

The genesis of this arrangement was when the former Prime Minister, Mitchelle, made an agreement that if the water company can pay for itself, it would be left to manage its business without political interference. The company rose to the challenge,
stuck to the agreement and the Government cannot interfere. Attempts have been made to interfere, but the Manager has threatened to resign each time.

The company embarked on a very proactive human resource development programme, recruiting some of the best trained people, providing them with opportunities to grow, and paying for educational programmes: adult education programme over five year period and university degrees. Sixty (60) percent of the clerical staff have now completed first degrees and 5-6 staff members have masters degrees. The company has a pension plan in place. Staff loyalty is so great that they literally built a new building for the Authority by providing the labour free of charge.

**Trinidad and Tobago**

In Trinidad and Tobago, the privatization process of the Water and Sewerage Authority (WASA) started in 1995 with a management contract being granted to Severn Trent and George Wimpy of the UK and Trinidad and Tobago Water Services Company. This contract started in 1996 and lasted for three years. During this period, there was an improvement in the collection of monies and staff was downsized.

At the time, it was proposed that several workers could form companies and bid for contract work and this did happen, but then it fell by the wayside, probably because they did not get jobs, and this could have been because of political interference, with the change in government. It is now up in the air as to what direction WASA will take. A new government is in power, and it is once again, a political decision.

It is suggested that the company should install meters and this will lead to conservation. The proposal is to hire private companies to install and service the meters and consumers pay the cost. This proposal of metering has been discussed for the past twenty odd years without action being taken, and that is largely because of the cost involved. Now, if the cost is transferred to the consumer, it may happen. There is a blessing in disguise though, in this delay in installing meters, since the old meters read air (the problem experienced in Belize). The new meters are more efficient. However, privatization of tasks is needed, and the infrastructure is over 50 years old. This is a major contributor to water loss – some 45 percent in Trinidad.

**4.2 The Jamaican Fair Trading Commission**

The Fair Trading Commission

The Fair Trading Commission (FTC) is a statutory body established in 1993 to administer the Fair Competition Act (FCA). The Chairman and four Commissioners comprise the Commission and are appointed by the Minister of Commerce, Science & Technology. The Head of the FTC is the Executive Director, who is employed by the Commission and approved by the Minister. The Executive Director is responsible for the
The day-to-day operation of the FTC. The Government of Jamaica through the Ministry of Commerce, Science and Technology funds the FTC in its entirety.

The main function of the FTC is to carry out, on its own initiative or at the request of any person, such investigations in relation to the conduct of business in Jamaica as will enable it to determine whether any enterprise is engaging in business practices in contravention of the FCA, and the extent of such practices.

The Fair Competition Act

The Fair Competition Act (FCA) came into force on September 9, 1993. The objectives of the Act are to:

- Encourage competition in the conduct of trade and business in Jamaica;  
- Ensure that all legitimate business enterprises have an equal opportunity to participate in the Jamaican economy;  
- Provide consumers with better products and services, and a wide range of choices at the best possible prices.

To achieve these objectives, the FCA covers both competition matters and consumer protection. The prohibitions that relate to anti-competitive matters are:

- Abuse of dominance  
- Agreements which lessen competition  
- Bid rigging and collusive tendering  
- Minimum resale price maintenance  
- Market restriction  
- Exclusive dealing  
- Price fixing  
- Tied selling

The prohibitions that relate to consumer protection are:

- Sale above advertised price  
- Double ticketing  
- Tied Selling

The FCA does not contain merger control provisions; it however contains provisions which prohibit agreements which have as their object or effect the substantial lessening of competition in a market. Mergers in the financial sector are subject to approval by the Central Bank and the Finance Ministry.
The FCA applies to all business activities in Jamaica and to all enterprises carrying on business in Jamaica, with the exception of the following, which is set out in Section 3 of the Act:

(a) combinations or activities of employees for their own reasonable protection as employees;

(b) arrangements for collective bargaining on behalf of employees for the purpose of fixing terms and conditions of employment;

(c) the entering into of an agreement in so far as it contains a provision relating to the use, licence or assignment of rights under or existing by virtue of any copyright, patent or trade mark;

(d) the entering into or carrying out of such an agreement or the engagement in such business practice, as is authorized by the Commissioners under Part V;

(e) any act done to give effect to a provision of an arrangement referred to in paragraph (c);

(f) activities expressly approved or required under any treaty or agreement to which Jamaica is a party;

(g) activities of professional associations designed to develop or enforce professional standards of competence reasonably necessary for the protection of the public;

(h) such other business or activity declared by the Minister by order subject to affirmative resolution.

**Capacity of the Commission**

The FTC falls under the Ministry of Commerce, Science and Technology and is totally funded by the Government of Jamaica. The average annual budget of the FTC is approximately US$60,000.00 (based on Ja$50:US$1). The FTC does not collect any fees, and any fines made by the courts for breaches under the FCA are payable into the consolidated funds.

There are five Commissioners, who perform a quasi-judicial function, and the Staff, headed by the Executive Director. The current Commissioners include one economist (Chairman), two (2) lawyers and two (2) accountants. The Staff comprises technical and support personnel. The technical Staff includes Lawyers, Economists, Research Officer and Compliants Officers. The FTC’s full Staff complement is 21 -the Executive Director (lawyer), a General Manager, three (3) lawyers, three (3) economist, one (1) research officer (economics), three (3) Complaints Officers, nine (9) administrative and support
staff. The posts of Senior Economist and Senior Legal Counsel have been vacant for some time.

The required qualification of legal officers at the FTC is LLB (First Degree in Law) and CLE (Certificate of Legal Education from the Norman Manley Law School, Mona Campus). Economists are required to have a Masters Degree in Economics; Senior Economist is required to have a Ph.D. in Economics. Complaint Officers and Research Officers are required to have a first Degree.

The salary of lawyers and economists ranges between US$20,000.00 and US$40,000.00 per annum. The salary range for Research Officers and Complaint Officers is US$8,000.00 and US$11,000.00 (based on Ja$50:US$1).

There is a serious problem of staff turnover, with an average of two persons leaving each year, either to go to another Ministry or to go back to school. Salaries are on par with the private sector. The problem is that the staff is generally young and in transition. They usually come in green and leave too soon to acquire comprehensive knowledge and experience. The institution is short of funds to facilitate travel for staff for training and to undertake internships at other competition authorities. The institution is under-financed, like all other government institutions.

The FTC has a library which contains materials on competition issues and consumer matters from other jurisdictions. These include newsletters and procedural manuals. However, it took several years and technical assistance to be able to develop the library to its current level. The Staff also gathers information from the Internet (web site of other competition agencies).

The FTC currently utilises a computerised data base system, Correspondence Control Manager (CCM), and is currently in the process of implementing an improved data base system with the assistance of USAID. The FTC disseminates information to the public via its website, outreach programmes, seminars and brochures.

An important issue that was brought up by the financial regulator is where the jurisdiction ends between the FTC and other regulators. In the relationship between the FTC and financial regulators, it is unclear who has primacy. In the view of the financial regulator, it is the financial regulator who should have primacy, and should approach the FTC if there is an issue related to competition, get its advice, and take such advice into consideration. His view was that if the situation is a risk to the stability of the financial sector, the regulator cannot be constrained by having to consult. In prudential regulation, the fact that there is a problem must itself be kept secret, and even when solved, often must be kept secret.

Interviews revealed that the FTC has made a favourable impression on consumers and the business sector, generally speaking. Some manufacturers had a good view of the work of the FTC, and were very pleased with the information provided, the workshops and the website. One leading entrepreneur said that the FTC has been successful by
virtue of being there, in that it provides a deterrent on firms’ misconduct. However, many persons interviewed in the private sector complained that the FTC did a great job for a few years, but has now gone silent, and is not pro-active enough, and not providing sufficient information. They would like to see structured releases on the problems they have dealt with, and the results. There was the feeling that the average business person and consumer did not understand sufficiently about the FTC and its work, and would only seek information if they can see the direct benefits to themselves.

**Cases Investigation by the FTC**

Since inception to December 2002, the FTC closed over 4,200 cases. Of these cases approximately 10 percent are competition-related matters. The cases arose from complaints made by persons in direct competition with the companies complained about (inter-brand competition), or who are in a vertical relationship (wholesaler/retailer) with the company complained against (intra-brand competition); and some are requests for opinion from the FTC, from companies which might be proposing to implement some arrangements. As companies change their distribution method in a bid to be more efficient, their wholesalers/retailers may be adversely affected, for example, through a reduction in profit margins or ability to increase their product line. Complaints regarding vertical restraint are usually of such nature; and the complainant is usually the wholesaler/retailer and not a rival producer.

The competition related matters relate to a range of industries in which there are few firms. The industries include the following:

- Cable TV
- Bill payment
- Water tank
- Soda
- Telecommunication
- Cement
- Lottery
- Flour
- Supermarket retailing
- Petroleum
- Beer
- Health insurance

The competition related matters involved allegations of predatory pricing, exclusive dealing, price fixing, refusal to deal and resale price maintenance and discrimination.

**Summary of selected cases brought before the Fair Trading Commission**

Case between the General Legal Council and the Fair Trading Commission
In November 1994, the Staff of the Fair Trading Commission wrote to the President of the Jamaica Bar Association indicating, among other things, that some of the Canons of the Professional ethics are inconsistent with the Fair Competition Act and as such may contravene Section 35 of the FCA. Section 35 deals with conspiracy. It states in subsection 1 that “no person shall conspire, combine, agree or arrange with another person to (a) limit unduly the facilities for transporting, producing, manufacturing, storing or dealing in any goods or supplying and service; (b) …; (c)…; (d) otherwise restrain or injure competition unduly. The rules which were of concern relate to:

1. The restriction of Attorneys-at-law to advertise, to promote the supply of legal services by their firms or to disseminate information about their qualifications.

2. The restriction of Attorneys-at-law freedom to include non-lawyers in partnerships.

3. The restraining of the freedom of Attorneys-at-law to decide what services they will charge for and at what price.

4. The restraining of Attorneys-at-law who have served as judges from practising thereafter.

As a consequence of the letter to the Jamaica Bar Association, the General Legal Council, the governing body of attorneys-at-law, filed an Originating Summons seeking the following declarations and orders:

1. That it be declared that in performing its statutory functions and duties under the Legal Profession Act, the General Legal Council established by the Legal Profession Act is not amenable or subject to the jurisdiction of the Fair Trading Commission.

2. That it be declared that the Legal Profession (Canons of Professional ethics) Rules, being subsidiary legislation and/or statutory rules made under he Legal Profession Act are not governed by the Fair Competition Act 1993.

3. That it be declared that the statutory rules made under the Legal Profession Act and in particular, Legal Profession (Canons of Professional ethics) Rules do not constitute an agreement within the meaning of the FCA.

4. That it be declared that the Legal Profession (Canons of Professional ethics) Rules made by the General Legal Council in performance of the statutory functions and duties imposed by the Legal Professional Act, do not contravene the FCA.
5. That it be declared that the FCA does not apply to the Legal Profession (Canons of Professional ethics) Rules by reason of the fact that those rules are made in the public interest under the Legal Profession Act in order to protect the public at large.

6. That it be declared that the provisions of the FCA do not repeal, amend, or modify the provisions of the Legal Profession Act, and the Legal Profession (Canons of Professional ethics) Rules.

The Legal Profession Act was enacted in 1972 and the FCA was enacted in 1993. The following declarations were granted:

1. That it be declared that in performing its statutory functions and duties under the Legal Profession Act, the General Legal Council is not amenable or subject to the jurisdiction of the FCA.

2. That it be declared that the Legal Profession (Canons of Professional ethics) Rules being subsidiary legislation and/or statutory rules made under the Legal Profession Act are not governed by the FCA.

3. That it be declared that the rules made under the Legal Profession Act do not constitute an agreement within the meaning of that term as used in the FCA.

Note: The Fair Trading Commission did not Appeal this ruling.

Desnoes & Geddes Ltd. (D&G) (Red Stripe Case)

Through newspaper reports, the Staff became aware of exclusive sales and promotional arrangements for Red Stripe beer between D&G and several distribution outlets. The Staff therefore initiated an investigation into these arrangements. The contractual arrangements which were investigated related primarily to the non-promotion of competing products at selected outlets; supply of sales data on competing brands; non-sales and non-promotion of competing products at sponsored events; recommendations that competing alcoholic products be sold at premium prices at sponsored events; and post-term preferential clauses.

The Staff terminated its investigation, following the conclusion of a Consent Agreement between itself and D&G which was approved by the Commissioners. In that Agreement D&G agreed, *inter alia*:

- With regard to agreements relating to sponsorship at events:—

- No agreements shall exceed three (3) years in duration, nor provide for an option to renew and/or rights of first refusal; and
- The required notice period for termination without cause in such agreements shall vary, depending on the amount of sponsorship contribution made, in accordance with agreed ranges.

- With regard to promotional arrangements with outlets:—

- D&G may execute exclusive promotional agreements with a limited number of outlets only, which number has been agreed with the FTC;

- No exclusive promotional agreements with outlets shall have a duration of more than twelve (12) consecutive months. None of these agreements shall provide for an option to renew and/or rights of first refusal. All agreements may be terminated with a reasonable notice period, which period has been agreed with the FTC; and

- None of these exclusive promotional agreements shall restrict or limit non-D&G products from being normally displayed for sales purposes;

**Blue Cross of Jamaica Limited (BCJ)**

BCJ, a health insurance company, in collaboration with Advance Integrated Systems (AIS), introduced and implemented an electronic claims processing system, referred to as Provider Access System (PAS), to replace its manual claims system. Complaints received from Health Providers alleged that the BCJ required that Providers pay to AIS a transaction fee of 1.75 percent of each claim adjudicated through PAS and that all Providers should sign on to PAS; with the intention that the manual system would be phased out.

A preliminary investigation of the complaint revealed that BCJ’s conduct could potentially inhibit competition in the market for the development of alternative system as well as result in significant cost to Health Providers due to the mandatory use of the system. Further, the exclusion from the BCJ’s Provider list of Providers who are not able to install PAS is likely to result in a reduction of the customer base for such Providers and significantly affect their ability to compete and expand in the market for the provision of health services.

Following the commencement of a formal investigation into the matter, the Staff met with BCJ who agreed to certain conditions that the Staff believed were sufficient to address the competition concerns of the complaint. BCJ agreed that it would make available to Providers either an Internet based system or some other system for which Providers will not be required to pay a transaction fee. It would also retain the manual system to facilitate Providers who do not have access to fixed-line telecommunications services or who provide health services to only a small number of persons insured by BCJ (averaging fewer than 40 per month). BCJ also agreed to make the relevant technical specifications available to any party who wishes to develop an alternative
claims processing system which is compatible to its own. This agreement was sanctioned by the Commission.

**Caribbean Cement Company (CCC)**

A complaint was made against CCC charging that its practice of constantly raising prices was an abuse of its dominant position. The Staff retained an external consultant to examine the company’s business practices in order to ascertain whether or not the price increases resulted from inefficiency or were otherwise justifiable.

The Consultant opined that there was an under-utilization of assets and that the company was not taking advantage of modern technology available in the marketplace which could substantially increase its efficiency. He further advised that major capital expenditure would be required to effectuate improved productivity which, hopefully would lower cost in the long run. The upshot would be a lower price to the consumer.

The company did not completely agree with the consultant’s findings but overall was amenable to reviewing its operations. Given that undertaking, the Staff, with the permission of the Commission, decided to suspend its investigation but continued to monitor the company’s operations.

**Jamaica Union of Travellers Association (JUTA)**

The Commission received complaints from two tour operators that JUTA, a third operator, was monopolizing the designated parking spaces for tour buses at the Norman Manley International Airport (NMIA). Investigations into the complaints revealed that JUTA operated the only taxi concession at both international airports as authorized under the provisions of the governing Act. Recognizing that JUTA had exclusivity in the provision of taxi services at the international airports, the FTC sought legislative amendments to the relevant Regulations. The FTC asked that the Regulations be amended to allow for competition in the market or at least competition for the market, i.e., for more than one taxi company to operate simultaneously at the airports or for a condition to be inserted whereby taxi companies can compete for the chance to provide the service for a specified duration. The Airports Authority of Jamaica complied with the FTC’s request and new Regulations which allow for more than one approved concessionaire took effect on July 31, 2002.

**The Banking Industry**

As a result of allegations that documents often signed by bank clients were not written in “reader-friendly language” the FTC brokered an agreement with the Bankers Association of Jamaica. The agreement sought to cover the areas of:
1. Clarity in banking documents

It was agreed that a fact sheet in layman’s language would be attached to the face sheet of all loan documents for individual consumers. The fact sheet would contain information that the average person would need to have. It would detail at the very least, the effective interest rate, whether or not there are prepayment penalties and the total amount of the loan.

2. The posting of the exchange rate

The banks would indicate whether or not these rates were opening rates only. In other words, the consumer should be put on notice if the rate stated could vary throughout the day. If that indication is not given, the consumer is entitled to assume that the rate posted is the set rate and he would be able to obtain his foreign exchange at that rate.

3. The advertising of interest rates

Where “add-on” rates are used, they should be designated as such. It was generally agreed however, that it would be more useful to state the effective rate of interest when advertising as the add-on rate is deceptively lower. This is expected to minimize confusion and the average consumer would be better able to compare rates among banks.

Media Association of Jamaica

The staff of the FTC and the Media Association of Jamaica (MAJ) have reached a settlement concerning that Association’s “Recognition Agreement”. Prior to the advent of the FCA, media houses by means of this Agreement would pay a fixed commission and extend credit to only “recognized” agents.

To be “recognized” an agent had to apply to the MAJ and satisfy it as to certain billing and other structural capabilities. Having been duly satisfied, the MAJ would then pay a fixed commission of 18 percent to that agency in addition to extending to it a credit period for advertisements placed in the various media. Should the agency fail to pay its bills timely to even one media house, all media houses would deny that agency credit.

It was the view of the staff of the FTC that the agreement between the media houses to fix the amount of the commission constituted both a conspiracy to restrain competition, and price-fixing. The unequal treatment of the unrecognized agents also invited the scrutiny of the staff. It was felt while the MAJ could certainly put in place reasonable standards for recognition, it is anti-competitive to penalize media houses who choose to extend credit and pay commissions to those agents who did not meet those standards. Commercial entities must not be deprived of their ability to engage in independent contracting vis-a-vis trading partners.
In light of the staff’s views, the MAJ entered into negotiations with a view to arriving at a form of Agreement which would not offend the terms of the FCA. The parties developed a Recognition Agreement which conformed to the terms and spirit of the FCA. The MAJ agreed, as part of the settlement with the FTC’s staff, that it would institute a 90-day period for the procession of applications for recognition and, should an application be denied, that denial may be appealed to a panel of three-persons who are unconnected to the media.

Additionally, there is the possibility of provisional recognition whereby an agency, new to the marketplace, may nonetheless be afforded the legal benefits of a recognized agency. Provisional recognition automatically expires at the end of one (1) year, at which point the agency may apply for full recognition. The Commission ratified this agreement.

**Direction of the FTC**

The FTC is presently constrained in its handling of cases which must be adjudicated by the Commissioners due to a Court of Appeals decision which states, among other things, that the FCA is in breach of natural justice since it empowers the Commissioners to act as complainant, investigator, prosecutor and adjudicator. The FCA is currently being amended. The major amendment is aimed to rectify the problem of breach of natural justice. What is being proposed is that the FCA recognise the Staff, led by the Executive Director, as the Investigator and the Commissioners as adjudicators. The intent is to provide a clear distinction between the roles of the Commissioners as an adjudicating body and the role of the Staff as investigators.

It is interesting to note that the current lack of public outreach on antitrust issues of the FTC is directly related to the effects of the high court judgement, but that no one interviewed in the private sector made the link between the lack of public outreach of the FTC in recent times and the effects of the judgement. The judgement has been a serious setback to the work of the FTC, since it cannot pursue any cases until the law constituting the institution is amended. This process is underway. This shows that the private sector does not keenly follow the happenings at the FTC.

Initially, the Staff’s focus was that of a consumer protector providing a means of redress for consumers who have fallen victim to deceptive merchant practices. This resulted in a kind of quasi-client/attorney relationship between the Staff and individual consumers. While individual consumers were receiving redress, the behaviour of businesses in general remained unaltered, with identical complains being made time and time again against the same respondents.

The FTC is now putting more emphasis on prevention rather than on remedy. Information is a crucial ingredient in this strategy. The FTC, in its consumer protection work, promotes the concept of the knowledgeable consumer. Information is supplied either directly by the FTC or by encouraging others to provide it (through moral suasion
Interview with the FTC

1. How did the government go about drafting and introducing the law? LEGAL FOUNDATIONS OF JAMAICA’S COMPETITION LEGISLATION: The period from inception to enactment of the Fair Competition Act (FCA) in 1993, was marked by several redrafting exercises. The first draft accompanied the Green Paper and was submitted for public comment. Many aspects of the draft faced widespread resistance.

In particular, provisions which sought to regulate monopolies, mergers and interlocking directorships attracted unfavourable responses from the public, primarily because it was felt that the Jamaican economy still being in its infancy and subjecting these aspects of its economy to scrutiny might impair economic development.

It was determined that a monopoly as a structure is not inherently wrong and that monopolies by virtue of their scale of operations can be appropriate to maximize the efficiency of production which can lead to low unit costs. It should be noted that the FCA prohibits an abuse of a dominant position only if it found that the action by the dominant firm has had, is having or is likely to have the effect of lessening competition substantially in the relevant market.

With respect to interlocking directorships, it was argued that this type of structure is not offensive, per se. Rather, as with monopolies, it is the abuse of such structures that causes concern. Regarding mergers, it was felt that proposed amendments to the Companies Act would monitor the activities of companies in this area. Interlocking directorships and merger regulation are not included in the FCA.

For subsequent drafts, precedents were obtained from Commonwealth jurisdictions. Initially, the United Kingdom, Canadian, New Zealand and Australian statues were consulted, but thereafter reference was made primarily to legislation from New Zealand and Australia. It was integral to the drafting exercise at that stage to examine the institutional structures of various model agencies which give effect to competition legislation. It was determined that the New Zealand and Australian models, which are based on US anti-trust law principles, were the most appropriate for the local scenario.

It was recognized that under the New Zealand and the Australian model, the Commission has not only an investigatory role, but also the responsibility for authorizing anti-competitive practices on the basis of public benefit. In addition, persons injured by anti-competitive practices have two courses of
action. They can either complain to the Commission, in the hope that the Commission will take some action having investigated the matter and found that a breach of the Act has occurred, or private litigation, otherwise referred to as a “private right of action.”

The Jamaican policy makers favoured the adoption of the New Zealand and the Australian approach as these two agencies were not subject to a substantial amount of ministerial intervention. The FCA, has a provision which gives the Minister power to exempted activities from the application of the FCA.

2. *How did Jamaica go about preparing stakeholders for the introduction of the regime?* All drafts of the legislation were presented to the public for its views. It was after the first draft was presented to the public that merger regulation and interlocking directorships were excluded from the provisions of the Act.

3. *What was done to win over the support of stakeholders and which stakeholders?* The consumers welcome the FCA and the FTC. The policy direction set by the first Executive Director was consumer-oriented in its approach. That strategy was adopted primarily to get support for the agency and the publicize it. The media was receptive of the new law and the agency.

The FTC is continuing its effort to make the public aware of the agency, its role and the provisions of the FCA. In this regard the FTC hosts an annual lecture series, called the Shiley Playfair Lecture Series. To date, there has been 4 lectures which were conducted by distinguish competition practitioners from countries such as the United States, Ireland and Peru. This forum is open to policymakers, lawyers, economists, students and the general public. The FTC also hosts seminars and outreach programs and the Staff, from time to time, makes presentations at tertiary institutions.

4. *What efforts were made by the government, what they did right and what they would correct, what advice they would give to other CARICOM countries?* The introduction of competition law in Jamaica was timely. The law was introduced during the time when the government was embarking on policy measures associated with a liberalized economy. The introduction and implementation of any law, however, must be carefully reviewed. The FCA is based primarily on the New Zealand and Australian laws. There is, however, a number of flaws in the law, the main one relating to the “breach of natural justice” as found by the Courts of Jamaica. The Act does not recognize the Staff of the Commission. It gives the Commissioners the dual role of investigators and adjudicators. In practice, however, it is the Staff that does the investigation. The law will be amended to correct this flaw, which now renders the agency impotent to deal which certain matters. Discussions on the most appropriate corrective measures are currently taking place.
It would be good for governments to implement courses at the university level, which relate to competition law prior to the introduction of the law and agency. This will reduce the time spent by employees learning on the job and therefore make the agency more efficient. All the groundwork in terms of putting in place procedural manuals and staff training should be done prior to the implementation of the legislation.

Adequate funding is also important. Competition law is a specialized area which is new to the Caribbean, therefore the agency should be adequately funded so that it can afford to train its staff and employ consultants, if necessary.

It is also necessary to have in place other supporting agencies and legislation, such as a standard agency and labeling law. This is important for consumer protection.

5. *Does the FTC cooperate with other Competition Authorities on cross border issues?* The FTC has not dealt with any cross-border issues, nor does it deal with merger cases. It does not have any formal cooperation agreements with other competition authorities. However, it does have an informal relationship with the US Federal Trade Commission and has benefitted from a substantial amount of informal assistance, including advice on cases. As has been found by Competition Authorities throughout the world, it is the informal contacts and relationships that prove to be most useful.
SECTION 5

SUMMARY, RESEARCH FINDINGS AND POLICY RECOMMENDATIONS

5.1 Summary of Phase 1

This empirical study sought to provide an understanding of the dynamics of competition in small economies, and the extent to which the given thinking on competition law and policy applies in these economies. At the beginning of the study, questions were posed in the following areas:

- Is competition law relevant for small economies and is it important for economic development?
- Are there features in small economies that are peculiar to small size and which can impact on the dynamics of competition in the market?
- How applicable to small economies are the theoretical underpinnings of competition law and policy?
- How should the competition regime be shaped to fit the needs of the economies?
- Given the research findings, how do CARICOM countries respond to the provisions in the FTAA Draft Chapter on Competition Policy?

The first stage of this study involved developing a profile of the economies, both in terms of the general characteristics and the dynamics of competition in the economies. It was found that the economies are small (micro) economies, with populations ranging from 2.4 million to 110,000, with land size and resources severely limited in most cases. Development strategies have been largely externally propelled, with concentration on commodity production in agriculture and minerals, and more recently, on tourism. Prices for exports are fixed on the international market, and with the exception of petroleum, have been steadily declining.

The economies were found to be very vulnerable to external shocks because of their high dependence for income on export of products at the low end of the product chain whose prices are volatile. More importantly, foreign currency earnings from exports are used to purchase consumables, most of which are imported. Persistent negative balance of payments plague these economies, and most are starved of foreign currency. External
borrowings fill the gap, with the result that there are burdensome external debt obligations in these countries. T&T is an exception, where buoyant oil prices have kept the economy afloat.

Globalization and the accompanying shifts in trade rules have removed preferential trading arrangements and plunged the banana producing economies in particular into severe recession. Structural rigidities- lack of infrastructure, technological backwardness, limited skilled human resources, small family owned firms and little or no backward and forward linkages in the economy - make it very difficult to shift production, or have flexible production systems. Penetration of global markets is difficult, and therefore the constraints resulting from small markets cannot easily be alleviated through exports, as suggested by PricewaterhouseCoopers and Gal.

Vulnerability to external shocks, economic and natural disasters, is a constant feature of these economies. The region has several active volcanoes, but more pervasive is the yearly threat of hurricanes that wreak havoc on infrastructure, agriculture and the tourism industry. Moreover, unlike in industrialized countries, the government is unable to render financial assistance in cases of natural disaster because of lack of its own capacity. A defining feature of these small, vulnerable economies is that a single negative impact affects the entire economy, rendering them very fragile.

In order to answer the core questions, it was necessary to determine how open are these economies and to identify the non-tradable sector. Three of the six economies (T&T, Bahamas and Jamaica) were found to be largely open to trade, with the Bahamas having no restrictions to imports except to protect public interest. The lesser developed countries (LDCs) of the region do have restrictions in the interest of protecting sensitive sectors of the economy that provide employment or, in the case of Belize, both employment and food security. Despite this, the ratio of imports to GDP is very high, and where it is not, such as the Bahamas, this reflects the size of economic activity in tourism and banking rather than production of goods and services for local consumption. In sum, the economies are largely open to imports.

Foreign Direct Investment was found to be extremely high in these economies, dominating the major economic activities, that is, tourism and mining for bauxite, oil and gold. In T&T, FDI was found to have penetrated a wide variety of sectors and activities in the economy. Unequal agreements with foreign investors giving privileges far in excess of what is considered a fair sharing of surplus has been a constant feature in the economies of this region, with the most extreme case being the Hawksbill Creek Agreement by which Freeport was established virtually as a private fiefdom.

However, there is a large non-tradable sector in all the economies. Because these countries are so dependent on imports for consumables, the majority of local economic activities revolve around importation, distribution and retail. The exceptions are T&T and Belize, in that both countries have substantial production of goods by local firms in light manufacturing in the former and agricultural products in both. T&T’s manufacturing and agricultural sectors are not protected from foreign competition (except sugar and poultry),
but Belize’s agricultural sector is protected. Public transport and other local services in these economies are largely insulated from foreign competition. However, there is the phenomenon of consumers moving to external suppliers, as is the case in the Bahamas, where consumers move to Florida to shop and seek medical services, or Belize, where consumers move to Mexico or Guatemala for similar reasons, though not as widespread as in the Bahamas.

While the state is still active in the economy in all the countries studied, the involvement is very low. Most state-owned enterprises have been privatized as part of the Structural Adjustment Programmes imposed on this region by the IMF and World Bank during the 1980s and 1990s. Moreover, under these programmes, considerable liberalization of the economies was undertaken, hence the high level of openness.

5.2 Research Findings

Is competition law relevant for small economies? Are there features in small economies that are peculiar to small size and which impact on the dynamics of competition?

The research findings are that anti-competitive conduct is prevalent in these economies, despite their openness and miniscule size. There is therefore a need for competition law. Moreover, there are serious concentrations in these economies as firms strive to achieve minimum efficient scale, given the small size of market, or because entrenched historical wealth still control most resources. Because the economies are highly dependent on imports, and the productive sector is dominated by exportables – tourism, agricultural commodities and mining – the main areas of concentration are found in the import/distribution/retail sectors. Consumers were found to be discriminating in their analysis, defending local products in certain cases because of quality (poultry), or in the interest of employment and food security (Belize). The dominant sub-sectors of the export sector in these economies are controlled by FDI.

Cartels

Active cartels were found largely in the activities of trade associations, and mainly in Trinidad and Tobago where the economy is larger and more complex. Thus, recent price fixing by the Baker’s Association was openly announced in the newspapers, the Shipping Association increased their handling charges, despite protests from their clients, and price maintenance was found to be standard business practice for one large bakery company, albeit to prevent retailers from charging a higher price. Because there is no law prohibiting collusion, and this has been the business practice of trade associations from time immemorial, there is no sense of wrongdoing amongst the firms. The five largest poultry producers in Trinidad indulged in
incremental increases of price from January to August of 2003, in the amount of 85 percent increase, and it took government intervention and the threat of opening the sector before prices were brought down. However, a closer examination revealed that, rather than price fixing, the issue was predatory behaviour on the part of one dominant player who was responsible for the price swings and the demise of two producers.

Interestingly, in the very small territories of St. Lucia, SVG, and the Bahamas, there were strong feelings by all who were interviewed that firms did not collude to fix prices. Rather, they followed the leader. There seem to be a business culture amongst these family firms to fiercely guard their independence. There is a view that “Partnership is a leaky ship.”

At the same time, businesspersons in these very small economies abhor fierce competition. “Dog eat dog” competition is not their style, they said. Rather, they asserted that their competitors are their friends. However, unlike the similar pronouncement in the Lysine Cartel case, in these countries, they meant it literally. The population in general, and the business population in particular, is so small that business persons literally are friends, growing up together, are related, and socialize with each other. The culture of competition is different than that found in larger economies. Even in Trinidad and Jamaica there is less intimacy except amongst the big business entrepreneurs.

A question that arises is, in these small economies, how does a competition authority prove collusion, when the indicators of collusion, such as personnel from firms meeting for dinner, or at hotels, is normal everyday practice in these societies. Unless there is written evidence, it will be very difficult to find evidence. Nor is it certain that a Leniency Programme based on the US model will work in these small economies, for two reasons. The first is that firms will only expose a cartel in which they are involved if there is real fear of the Competition Authority and large fines and possible imprisonment are involved. It is hardly likely that the new Competition Authorities in CARICOM will inspire such fear. Secondly, the culture in small economies, based on intense inter-personal relationships, does not easily lend itself to whistle blowing. Rather, a business person could be socially ostracized for “telling” on friends, family or business colleagues. Worse yet, in societies that are increasingly paralyzed by the drug trade accompanied by violence and crime, and with drug money laundering through business activity, whistle blowing could cost a person his/her life if it invites unwelcome scrutiny from the Competition Authority.

The research also revealed a prevalence of import cartels in the smaller economies, linked to new emigrants: Chinese, Taiwanese, and Indians. Within their ethnic groups, they combined their orders and import together, thus reducing cost by increasing scale. It is quite possible that they fix prices as well. However, prices are lower than that offered by incumbents, so that, in
fact, competition is increased and consumers gain. Indeed, Barbadians are shopping in St. Vincent so as to access these better prices.

It is interesting to note that this ethnic behaviour was seen in earlier times in the Caribbean, in the late 19th and early 20th centuries, when Chinese and Syrians displayed similar business strategies. The Chinese imported together, divided up the markets geographically and thereby provided dry goods stores throughout the country, thus making supplies more accessible to the consumers. The Chinese Association was the venue for coordinating business strategies. By so doing, they successfully challenged the dominant white-controlled import/distribution/retail businesses in Trinidad, Guyana and Jamaica (Ryan and Stewart 1994).

The Syrians operated in a similar manner, and also successfully challenged the incumbent retailers of textiles, so much so that they now totally control the textile trade in the region, having moved up the islands from Trinidad. They import in bulk and break bulk in one island and trans-ship the orders to the various islands. Having gained dominance, it is no longer clear whether their pricing is in the consumer’s interest. However, the perception is that the prices compare favourably with prices in the US for comparable textiles. The Syrians have now moved up the social ladder and have been included into the white/near white social strata, and now dominate the business sector in Port of Spain, the capital of Trinidad and Tobago.

One can conclude, then, that in small economies, collaboration amongst small businesses facilitates market entry and challenging of incumbents. Where this domination derives from inherited “plantation” wealth, such collaboration provides the means by which to dislodge such dominance in the interest of a more egalitarian society. This is even more important when the divide is along racial lines.

Export cartels are also prevalent in the smaller islands where commodity production for export by small farmers can be economic only if they group together to export, organizing the collection, selection, packaging, and shipping of the product together. Products like bananas from the Windward Islands, and spices from Grenada must be coordinated and exported in bulk to be economic.

Banks were accused of cartelization across the region. However, research findings point to the type of interdependent behaviour identified by Gal who argued that because the business elite is small, they are careful not to compete in each other’s domain but rather, operate within an explicit or implicit understanding to jointly exercise market power or limit competition. As one banker said, they are careful not to “rock the boat.” Moreover, given the high level of risk, the leader is unwilling to take more market share from competitors. Another factor is the limited size of market, in which, for
instance, a clientele of 100,000 is divided amongst eight banks (Bahamas). Room for competition is very limited, and transparency in the market facilitates cooperative behaviour.

Gal’s finding that the price umbrella may be high enough to allow smaller and inefficient firms to enter the market is also validated by findings in the banking sector. While the majority of banks are foreign owned, there are small local banks in most of the economies and the fact that they can survive, having much higher overheads, given scale, points to the excessive spread and high profits reaped by the larger banks.

It is interesting to note that in economies where there is a large liquidity reserve requirement, and a floating exchange rate (T&T and Jamaica), or severe foreign reserve shortages, as is the case with Belize, the spread is much wider than in economies where there is a fixed exchange rate and exchange control regulations (St. Lucia, SVG, and the Bahamas). A survey of spreads across a range of countries generally showed very wide spreads in developing countries (with some exceptions). One may possibly link stability of currency and access to hard currency to the width of spread which banks consider adequate to cover costs (given high liquidity reserve requirement is linked to risk coverage and defense of foreign reserves).

Apart from having to defend the reserve requirement, banks in small economies suffer from diseconomies of scale, limited investment opportunities (exacerbated by foreign exchange controls which remove accessibility to foreign markets), the need to provision for bad debt because of vulnerability of the economies, volatility of earnings and delinquent client behaviour. The personalized nature of banking practices increase the discriminatory nature of banking relations, in which friends and relatives get privileges above the average client.

Indeed, the research findings show that, despite the many problems faced by the banks due to small size and vulnerability, they have higher profits than banks in industrialized countries. There may be a defense of these higher profits as a buffer to ride out bad times, given the vulnerability of the economies, and the higher risk of destabilization of the financial sector. However, there is room for lowering charges and giving consumers (including producers) a fairer deal, given the importance for development of access to capital at economic rates. Given that, to all appearances, the behavioral problem stem from structural features, and introducing more competitors in the market is unsustainable because of limited size of market, what then is the solution? Many bankers proposed mergers as the way of increasing competition amongst bigger entities, and that this trend has already started with First Caribbean Bank. Central Banks may also need to factor into their supervisory analysis a balance between solvency of banks to ensure stability in the financial sector, and consumer interests. Since the banking sector is
sacrosanct, and only the Central Bank has authority over this sector, it is extremely important that some accommodation be arranged between the Central Bank and the Competition Authority from the very inception of the introduction of the regime since complaints against banks may no doubt be lodged with the Competition Authority fairly early in its life.

Concentrations

Serious concentrations were found in all the economies, particularly in the import/distribution/retail sectors. While MES certainly provides an important explanation, it was found that many of the owners of dominant firms were descendants of the plantocracy, and distribution of wealth in the society still reflects in large measure the inegalitarian and exploitative history of these territories. MES can partly explain the fact that in the Bahamas and St. Lucia, two supermarkets control the import and retail trade in food. However, the fact that these supermarkets are owned by the white elites whose families dominated the economy since the colonial period cannot be explained by the MES argument. In many of the economies, this ownership structure was discerned in the import/distribution/retail sectors, and the dominance of this group created barriers to entry of newcomers. This is why collaboration of small entrepreneurs to import and retail is bringing good competition into the economy by challenging the entrenched incumbents. It could only be made possible through cooperation.

This entrenched wealth has spread its portfolio to the new growth areas linked to the tourism industry, for instance, Tour Operators and Destination Management Companies. Exploitation of these economies during colonial times with cooperation between the dominating white elites and foreign capital is manifested most clearly in the case of Freeport, where legal monopolies exist that cannot be revoked until 2054. In some cases, such as the supermarket sector, consumers are suffering but this cannot be changed through application of competition law because of the terms of the agreement with the foreign investors for the development of Freeport.

In the micro economies, sole agents/importers are the norm so as to achieve economies of scale. Moreover, exporters of brand products refuse to deal with more than one importer because they would have to break bulk and ship small quantities. This is uneconomical both for the exporter and importer. In recent years, retailers have been able to bypass the sole importer and bring products directly from large warehouses in Miami, providing competition for the sole importers. However, consumers have not benefited since prices have not come down, either because the retailers are reaping higher profits or the cost of shipment is higher, given lack of scale equivalent to the sole importer’s shipments. Moreover, there is concern that quality of products may be compromised, since the Miami warehouses may carry products rejected by the
manufacturer because of slight defects not discernable to the casual eye. There have been many complaints by consumers in Trinidad and Tobago about poor quality of products brought from warehouse dealers.

With small size and diseconomies of scale, there are natural monopolies in electricity and water supply, and the production of flour and cement at the national level. While the cement industry was not initially a regional monopoly, it has become so because of the need to achieve minimum efficient scale. Both the Barbados and Jamaican plants were in serious financial trouble at the time of takeover by Trinidad Cement Limited. In the case of utilities, divestment in these small economies merely meant transferring the monopolies to private foreign ownership. In some cases, there are compelling reasons against divestment, such as the Bahamas Electricity Corporation, since public interest features strongly in the need to supply to the Family Islands at subsidized rates since small population and long distances across the ocean make it very uneconomic.

Because FDI dominates in these economies, and import dependence is coupled with little buyer power because of diseconomies of scale, economic actors in these small economies are more susceptible to exclusive dealing, tie-ins and refusal to deal. Most licensing contracts between locals and foreign firms contain tie-ins, and local firms simply accept this as normal. Exclusive dealing is the norm, and we noted cases of refusal to deal linked to sole distributorship. Other examples of unequal contractual terms are the guaranteed rate of return to the foreign owned electricity company in St. Lucia, and the exploitative contracts which Cable and Wireless managed to secure in this region during the 1980s. Lack of knowledge of trends in the telecom sector, and lack of capacity to negotiate in this region explain why the contracts were so unbalanced.

It is evident that prohibition of abuse of a dominant market position is very important in these economies, probably more important than prohibition of cartels, particularly when the wealth divide has historical roots and still reflect a racial divide. Opportunities for new entrants are limited. This issue must not be considered and analysed in an ahistorical manner, and outside of its social context. Pure economic considerations will not capture the development dimensions of the problematic.

It is precisely this problem that explains the level of political sensitivity that was encountered in St. Lucia and the Bahamas with the issues surrounding taxi service to tourists. The taxis are operated largely by small black entrepreneurs. Government is unwilling to reform the clearly inefficient service because it would mean loss of jobs, takeover by larger enterprises (that could mean elite whites), and loss of votes. While in the Bahamas the large white capital holders have moved into the sector (Play Tours and Majestic Tours), in St. Lucia, they are prevented from doing so by law. Clearly this
inefficiency is not good, and a solution has to be found to rationalise the sector, but utilizing competition law to break the stranglehold of the Taxi Associations is not viable, either politically or socio-economically. Neither is the retrenchment that is needed to bring efficiency to banks in the Bahamas. Alternatives for investment and employment are severely limited in these economies.

Gal’s recommendation that efficiency should be the sole objective of competition policy, which includes the law, if applied indiscriminately in these economies, would lead to social implosion. Removing protection of small black taxi drivers would open the way for wealthy white capital holders to take over the business activity, and lead to severe unemployment of a group that has little alternative options for employment. A politically acceptable solution has to be found. Moreover, there has to be a strategy of selective opening of the economy, by which sensitive sectors, sustaining employment or food security, for instance, could be protected from unfair competition from subsidized imports.

Concentrations in the economy and the close networking of the leading businesspersons are reflected in the prevalence of interlocking directorates in this region. While there may be some credence given to the argument that in the micro-economies like SVG, the pool of skilled persons is very small, this is not the case in Trinidad and Tobago and Jamaica. Yet, in both of these economies, the phenomenon is evident. Prohibition of interlocking directorates is needed in CARICOM countries, since this is one of the ways in which the dominant capital holders ensure that their control of the economies is maintained.

The links between business elite and politicians, facilitated by easy access to politicians because of the smallness of the society and familiarity of personal relationships, provide opportunities for some businesses to get competitive gains over their rivals through political interference in the competitive process. Indeed, in every country in which interviews were conducted, that issue was considered more important for fair competition than antitrust issues. Governance issues were found to be inseparable from competition issues.

So too was the impact of the operations of the informal sector on competition. High levels of criminal activities in this sector, linked to alleged corruption of customs officials and in other government departments, have resulted in container loads of goods entering the economy duty free (Belize, Jamaica, Trinidad and Tobago, SVG). The pervasive drug trade and money laundering through retail businesses is widespread in many countries. Formal businesses are unable to compete with the prices offered by these traders, and some have collapsed as a result. The very viability of many businesses in the formal sector is threatened in Jamaica. The business sector faces increased cost
because of the need for security, given the high crime level in Jamaica and Trinidad. This issue featured prominently in interviews.

**Merger Control Regulation**

The argument has been advanced, including by CARICOM countries, that MCR is not relevant for small economies. Indeed, the level of concentrations in the economies that are partly a result of efforts to reach minimum efficient scale, validates this argument. Even if the product does not face competition from imports, there may still be an argument for MES. This phenomenon, by extension, creates barriers to entry because markets can sustain only limited numbers of economic actors, and cost of entry is high if incumbents are to be challenged (hence the viability of import cartels to afford smaller actors market entry).

However, there could be instances where, despite economies of scale arguments, there is a need for several firms to compete in a market so as to ensure that consumer welfare is protected. The case of the buy-out of all cross-country bus companies by Novelo Bus Company in Belize, and the prohibition of the companies to apply for bus licenses for 15 years as part of the sales contract, is a case in point. Could a MCR regime have prevented this concentration from occurring? However, governance issues are also alleged to have been involved. Another example is the merger of firms in Barbados just prior to the proclamation of the Competition Law, in order to pre-empt an investigation by the Barbadian FTC. Protests by dairy farmers bore out the negative impact which the merger had in the relevant market. A third is the buyout of Stag Beer by Carib Beer Ltd. in Trinidad and Tobago, creating a total monopoly in local production, and with little foreign competition because of barriers to entry.

It seems that for small economies, MCR can be important. However, extreme care has to be exercised in evaluating merger cases. The yardstick of measurement used in larger economies should not be applied unthinkingly in small economies. It would be necessary to develop a set of criteria in keeping with local conditions upon which to make determinations, based on features of smallness and MES considerations, rather than simply prohibiting a merger if competition is substantially reduced in the market.

Gal’s recommendation that the threshold should be higher is relevant, but insufficient. For instance, further concentration is needed in the banking sector, in order to weed out the smaller players and allow a few bigger firms to compete on price basis. That could lead to lowering of lending rates and the spread between borrowing and lending rates. It should be noted, however, that in doing so, local banks are likely to be the casualties. Further, in small dependent economies, foreign firms dominate, and if the threshold were
calculated based on an average of firms’ assets in the economy, then most local firms would be excluded. In Gal’s analysis, she did not have to factor in high FDI presence in the economies, because this was not as significant a feature in the economies which she examined.

It may be that the answer is to pitch the threshold at a low enough level to capture the major local actors in the economy, but apply criteria that would allow finding a balance between examining for substantial reduction in competition and the need for concentration to increase efficiency. In the EU, for instance, the question that is asked is whether the merger is creating excessive concentration. That may be more relevant for small economies. One also has to find a means by which to limit the number of merger cases that could be investigated because of the limited resources in these economies and the complexity of merger analysis.

**Cross Border Issues**

Several issues surfaced that involved foreign corporations either resident in the countries or having vertical links with firms in the countries. The latter is seen in the arrangements between International Tours Operators and Destination Management Companies who tie up the market but also extract the minimal price out of firms that take part in the package deal – from airlines and hotels to restaurants and site operators.

Resident multinationals were found to be indulging in anti-competitive conducts. Such is the case of the multinational oil companies in T&T that do not give equal access to opportunities to supply services because they skew the bidding process in favour of companies from Houston, Texas. Local firms are up in arms. A multinational firm with ownership of the only steel mill in the country has been squeezing downstream steel producers both in terms of prices and supplies delivery, so that the downstream industry is in danger of collapsing. If the sector collapses, the MNC could supply the local market by importing products from its plants in Mexico and Indonesia, or take over the sector. The question is if there were a competition authority in T&T, would it have the clout to discipline those resident MNCs? Or would the MNCs bypass the competition authority and go directly to the political directorate and, either through persuasion or threats, get the investigation called off? This has happened in India and other developing countries.

Small open economies in CARICOM have been found to be susceptible to anticompetitive conducts, and with the creation of the CSME, such conducts could be extended regionally to bar entry to investors, or goods and services. The war between the beer companies in St. Lucia and T&T is resulting in barriers to entry. This type of conduct could be replicated in many sectors. In short, competition law is needed at the national and regional levels.
5.3. Is Competition Law Important for Development?

Development is here defined as not just economic growth, but growth with equity, so that the quality of life of the lower income groups is enhanced. A conclusion derived from the findings of this research is, yes, competition law is important for development, but that it must be tailored to the special needs of small economies, so as to address both the special needs of small size and also the public interest issues. For the most part, cartelization can be harmful to consumer welfare and must be disciplined, as in the cases of bread (important for low income groups) and the shipping agents’ cartels in T&T. Suspected predatory behaviour in the poultry sector led to wide swings in prices, harming consumers.

The downstream steel industry was initially conceptualized as a development strategy to take production to a higher value added level, using raw materials produced in the economy. The steel mill played a critical role in the strategy by supplying the raw material. This industry emerged in the early 1980s and has supplied the construction industry competitively, thus generating employment and saving foreign reserves. With the divestment of the mill to an Indian MNC, the downstream producers were left to the mercy of the MNC, whose alleged predatory behaviour now threatens the viability of the sector. Already, one company has exited the market. A competition law and effective enforcement could resolve this problem, in the interest of development.

However, there are problems in small economies which cannot be solved by the enforcement of competition law without serious fallout, such as the cartelization of the taxi associations. Nor can the problem of the wide spread between lending and borrowing rates offered by banks be solved by competition law, since the issue is not simply one of possible collusion, but is structural. Yet, the high rates dampen development, since cost of money to business is prohibitive compared to what is available to their counterparts in the industrialized countries. Banks’ selective policy for lending exclude not just small entrepreneurs that are engaged in traditional activities, but also those who could enter the Information Technology services sector where small entrepreneurs have good possibilities of competing, even internationally. Unfortunately, ideas do not inspire sufficient confidence in bankers to warrant lending money to support the project.

Further, the competition regime needs to be tailored to accommodate the levels of concentrations needed in these small economies, so that firms can achieve MES. Hence MCR has to be applied with considered discrimination using relevant criteria, rather than simply measuring for substantial reduction of competition in the market. Otherwise, the application of competition law could be harmful to economic development.

Finally, Competition Law enforcement has the potential to prevent resident MNCs from abusing their power in the market, provided that power asymmetry does not negate this possibility. Since these economies are highly dependent on FDI, and developmental benefits can be measured by the level of appropriation of surplus value to the local economy, competition law can be an important instrument to prevent excessive appropriation by MNCs.
5.4 How Applicable to Small Economies are the Theoretical Assumptions Underpinning Competition Law and Policy?

Assumption 1

A competitive market-driven economy is the most efficient, provides maximum welfare benefits and a successful market economy require a sound competition law to safeguard the competitive process.

Critique

Given the structure of the small economies of CARICOM, it is simplistic, and inaccurate to apply the above assumption to these economies, and have completely open and liberal competition policies. These economies are not internally integrated and self-propelled, but rather, they are responsive to external signals and demands from the major actors in the global economy. Markets are too small to achieve sufficient scale for firms to be globally competitive. A dominance of foreign firms in the economy, and dependence on imports mean that the direction of flow of welfare benefits may in many cases be out of the economy. Moreover, efficiency may well be achieved if the economies were allowed to be completely market driven, but at what cost? Welfare will flow out of the economy. Welfare benefits will accrue to subsidized foreign producers in the case of agriculture, for instance, while in Belize, some fifty percent of the population would be unemployed and reduced to poverty and food security would be at risk, given the scarcity of foreign currency.

A competition law is relevant in the non-tradable sector of the economy, which is largely in the service sector, but it should be a “tailored” competition law, rather than a “sound” competition law. In this respect, the findings of this research are contrary to the conclusions of PricewaterhouseCoopers that a strong and full fledged competition law should be introduced in small economies, and any reduction in the provisions would compromise credibility in the law. On the contrary, if provisions in the law run counter to development objectives, the law would lose credibility amongst stakeholders.

Assumption 2

If firms face competitive pressure, they would make use of resources in the most efficient way and would innovate in order to have a competitive edge.

Critique

In small economies, competition from imports produced by large foreign MNCs is too great to allow small firms to survive, even if operating at the most efficient level possible, because of structural constraints. Moreover, it was seen that firms do not invest
in R&D and are unable to innovate because of size constraints and lack of the enabling environment needed for innovation. Introducing competition in the circumstances of small economies would not lead to innovation and dynamic efficiencies except in rare cases. Having said that, this does not negate the value of having a competition law to discipline firms in the non-tradable sector, and that in that sector, there may be spin-offs of low-level innovation.

**Assumption 3**

*There will be losers in the process, but government’s social policy should deal with this fallout, not competition law.*

This is the conventional view of competition experts, and PWHC supported this position. However, in small economies, governments do not have the financial strength to be able to provide financial support to firms that collapse. There are no welfare cheques for the unemployed, no re-tooling and assistance to firms to re-direct resources to other economic activities. It is clear from these research findings that, in fact, a very discriminating competition policy is required to protect employment and productive sectors, and to keep the fabric of society from fraying or disintegrating altogether. Even in formulating the competition law, public interest must be considered where serious unemployment in vulnerable groups in the society could arise, while at the same time, spaces are opened up for entrenched capital holders to move into and increase concentration and the racial divide. Given this, the approach of South Africa of having a public interest provision in its competition law has more relevance for small economies than Michael Gal’s pronouncement that “… in small economies social goals should be given little or no independent weight in formulating competition policy.”

The findings of this research partially supports Gal’s conclusions that

- Prohibiting all mergers that increase concentration above relatively low thresholds would be economically harmful, and that higher thresholds than those used in large economies should be adopted. However, the threshold should take into account the presence of MNCs in these markets, and should also be low enough to capture dominant local firms in the non-tradable sector.

- Small economies should reject a policy that views agreements that have the potential to increase productive [or dynamic] efficiency as illegal per se. This is true for productive efficiency, but dynamic efficiency is rarely evident on small economies as a result of competition. Rather, firms are technology takers, and generally reluctant to even invest in the purchase of technology, except the larger firms.

- Lower thresholds of market share signifying market dominance should be adopted in small economies, than that used in larger economies.
• Strict anti-collusive policy should be applied to tactic collusion to help break down oligopolistic coordination.

PricewaterhouseCoopers, in its study, asserted that economies of scale need not apply even in small economies provided that export allows for economies of scale. Gal also pointed to exports as a way of increasing scale, and this is logical. However, in reality, CARICOM economies do not export much beyond commodities. The competition problems reside in the services to locals, particularly in import, distribution and retail trades. Granted, Trinidad and Tobago has a vibrant export sector to other CARICOM countries, and there are natural monopolies like cement that must be scrutinized. However, penetrating global markets is largely beyond the capacity of producers in the light manufacturing, agricultural (except limited commodities) and services sectors because of asymmetric information flows, non-tariff barriers, subsidized agriculture in the US and Europe and structural rigidities. The option to increase scale through exports is limited for CARICOM countries.

Nor can one support Gal’s assertion that “wealth dispersion and creation of small firms are inadvisable because inefficient firms will be preserved in the market.” The reality for small economies (bona fide small economies) is that there will be social implosion unless there is space for small firms to survive, and there must be a limit to how much foreign investors control the economy. Efficiency cannot be the only criteria used in evaluating competition issues. Displacement of firms in small economies in most instances is through entry of imports or FDI, with the accompanying welfare outflows from the economies.

POLICY CONSIDERATIONS AND RECOMMENDATIONS

5.5 Shaping the Competition Regime to Fit the Needs of the Economy

5.5.1 The National and Sub-regional Levels

In shaping its competition laws, CARICOM countries should have very strong provisions for prohibiting abuse of a dominant market position, because this is the major type of anti-competitive conduct found in most of these economies. While this is the more difficult provision to enforce, and even though the Jamaican FTC has had few cases in its ten years of existence, this should not be a disincentive to having such provisions and aiming to effectively enforce them.

The main constraint, and this was the experience of the Jamaican FTC, was lack of skilled personnel to enforce the law through use of the rule of reason procedure. Caribbean people have the ability to master complex procedures. So the problem is not capability. It is the lack of opportunities to develop expertise because of lack of resources. It is lack of capacity. Added to that, it is very difficult to keep skilled persons
because salaries are so low compared to other countries. Brain drain is a major problem that impacts heavily on development potential.

Given these constraints, the regional governments should give priority to:

1. Securing sustainable technical assistance for training of lawyers, economists and trade experts on the methodology for applying the rule of reason procedure. Internships, or seconded staff from more mature authorities should be arranged to guide staff while gaining practical experience.

2. Because staff turnover has been an endemic problem in Jamaica and in Latin America and other developing countries, scholarships should be tied to a minimum number of years of service to the government, with a penalty of repayment of all funds expended for the training. Draconian as this may seem, it is the only way that a competition regime can be introduced and implemented with any credibility and sustainability in this region.

3. A special educative programme should be developed to target the trade associations and dominant local firms in the economies, since the culture of competition is virtually non-existent in most of the economies and firms are largely unaware of the (potential) illegality of their actions. Cartels may be more prevalent in the larger economies within CARICOM: Trinidad and Tobago, Jamaica and Barbados

4. Both at the national and sub-regional levels, import and export cartels should be exempt from the application of the competition law, which could be covered by providing exemption for small and medium sized enterprises. There is provided for in the *de minimus* clause in Chapter VIII of the Revised Treaty of Chaguaramas, but a provision explicitly referring to bulk buying by small enterprises could be included in national laws.

Indeed, there is precedent to support this proposal. The United States Virgin Islands Antimonopoly Law provides for exception of such agreements. Article 1505 (Exceptions), Provision 11 states:

“the establishment of formal agreements between small entrepreneurs engaged in the retail sale of the same or similar commodities for the purpose of bulk purchase of those commodities in order to meet in good faith, competition of businesses with substantially larger sales volumes. For purposes of this paragraph, the term “small entrepreneur” means a merchant whose gross receipts from all sources in any year
cannot reasonably be expected to exceed $250,000 and who will not employ more than 12 persons.”

5. It may be useful to consider the merits of prohibiting vertical integration in some sectors in order to ensure that there are spaces for small entrepreneurs to enter the market, or to prevent dominant players from crowding out small entrepreneurs, for instance, in the tourism downstream sector. Again, there is precedent in the USVI Antimonopoly law, which Prohibits vertical integration in the import, wholesale and retail sectors.

6. Governments need to do some serious introspection on its conduct that compromises the competitive process. Politicians cannot, on the one hand, admonish the private sector for its anti-competitive conduct, and punish offenders, while on the other hand, senior politicians are doing the same thing, that is, limiting competition in the market by giving competitive advantage to some above others. Good governance is an essential part of policy reform needed to ensure that the competition regime is transparent and respected by the stakeholders. In this regard, corrupt practices in government which give advantages to cronies or support the criminal element of the informal sector should be addressed with urgency, if the regime is to be effective.

7. Special focus should be given to rooting out interlocking directorates where competition between the firms could be compromised. This could be politically sensitive because of the smallness of the societies and personalised relationships between government officials and the business elite. However, it is evident that in these societies, a small group of business elites is in control, and organise their relationships to preserve that control. The end result is that it is very difficult for new entrepreneurs to enter markets which they control. Reducing interlocking directorates could help to eliminate anti-competitive means used to control markets.

8. The importance of linking consumer protection with competition law is seen in the experiences of consumers who are increasingly exposed to inferior quality goods purchased from distribution warehouses in Miami. While sole distributorships have their problems, so too do the type of competition that is now challenging these agents.

9. A special effort should be made to develop cooperation modalities between bank supervisory bodies and competition authorities, given the peculiar problems existing in the banking sector in small economies. While it is accepted that issues of solvency of banks, and financial stability take precedence over competition issues, Regulators of Banks need to be sensitized to competition issues, and should seek
advice from the FTC on any such issues. Further, Bank Regulators must become more sensitive to the consumer issues, while giving priority to financial stability.

10. It is evident that, given the lack of human and financial resources, CARICOM countries need the maximum assistance possible to be able to develop and effectively implement competition regimes at the national and regional levels. The type and level of technical assistance required has been treated in detail by this author in a study done for the CARICOM Secretariat on the needs for implementing the CARICOM CSME, and will not be outlined here.

11. It was suggested that there should be a Regional Anti-dumping Authority to deal with cases that affect more than one territories, since the same case has to be considered in the various countries affected.

12. The private sector in the region expressed concern about moving away from the practice of having exclusionary vertical agreements between suppliers and distributors. However, the experience of Jamaica has shown that Jamaican businesses are now comfortable with the fact that they cannot have exclusive arrangements, and so these fears should be allayed.

5.5.2 Trade Related Competition Issues

It is argued in international fora that small economies could get special and differential (S&D) treatment through the exercise of exclusions and exemptions to the law. While this is true, one has to consider this as a way to protect industrial policy, which is available to all countries, rather than be classified as an S&D modality. What needs to be considered further, however, is whether applying national treatment to exclusions and exemptions would compromise industrial policy efforts.

S&D provisions may be considered in instances where non-reciprocity may be required because of the wide differences in intent and outcome of particular conducts. An example would be import and export cartels. Import cartels in developed countries can exercise market power on producers in small economies. Indeed, purchaser power in developed economies has outstripped supplier’s power. For small economies, however, import cartels serve a welfare-enhancing economic end, and increases competition. So while they should be prohibited in large economies, they should be allowed in small economies. The same reasoning applies to export cartels, which can harm consumers in importing countries when they emanate from the developed countries, but which are solely for the purpose of achieving MES in small economies.

S&D should also apply to cooperation modalities between small economies and the industrialised countries, because foreign investment dominates these economies and power asymmetry is a severe problem. Assistance in investigating cases involving
foreign investors (e.g., US and British Oil Companies in Trinidad and Tobago) would go a long way towards providing some clout behind requests for information. Otherwise, the FTC would have a very difficult time enforcing the law.

The same applies in the case of international cartels. Because these economies are so dependent on imports, they are extremely exposed to cartel activity. Yet, they have neither the power nor the knowledge to prosecute them.

5.5.3 Considerations when Adopting a Competition Regime: Lessons to be Learnt from the Jamaican and other Countries’ Experiences

1. Drafting the law: Jamaica has had the very unfortunate experience of having a fundamental error in the Fair Competition Act, in that the investigative and adjudicative arms of the Fair Trading Commission were not separated. The FTC was taken to court for breach of natural justice, lost the case and the appeal, and is now in the process of revising the law. Meanwhile, the FTC has been crippled. The lesson to be learnt here is that it is essential to have the draft law vetted by several international experts with experience in implementing the law, in order for legal loopholes and errors to be identified. It is not sufficient for CARICOM lawyers and technocrats to do this job, since there is no one with the necessary expertise and experience in competition law in the region.

2. The experience of Peru teaches that fines must be set at a high enough level so that large firms can be hurt by them, but smaller firms can survive a fine. At first, in Peru, the fine was set at US$40,000, but this was found to be too low for multinationals in the economy, and the fine was raised. However, the best course to follow is to have a percentage of yearly turnover, or assets (world-wide if that is the geographic market), in order that firms of all sizes are equally punished.

3. Finding a balance between efficiency and social justice is very important in this case, and the example of South Africa’s public interest clause may be appropriate for CARICOM countries, given the socio-economic issues revealed in this study. By that provision, the South African Commission is required to consider, in examining a case, whether disadvantaged groups are empowered by the anti-competitive action, or employment is secured.

4. Exemption from law of small and medium sized enterprises is necessary in small economies. A methodology has to worked out for defining the threshold, and the EU’s experience should be examined in this respect.

5. Informed consultation is a very important part of the process, in order to win over stakeholders. This was done, to some extent in Jamaica and it led to
some revision of the law. There should be an intensive programme of public education prior to and during the implementation stage.

6. In setting up the regime, a clear demarcation of responsibilities between the competition authority and other regulatory bodies is essential, or there will inevitably be trouble. In South Africa, after a bitter struggle between the Financial Regulator and the Competition Commissioner over jurisdiction to approve a banking merger, the Court had to decide. It is best to avoid such conflicts by both clearly demarking their jurisdictions and by including mechanisms in the institutional framework for the Regulators to work with the Competition Authority through regular meetings and consultations. It is important to sensitize the regulators to competition law issues.

7. Barbados provides us with a valuable lesson. The Fair Trading Commission was set up some three years in advance of the passing of the law. Utility regulators were brought into the Fair Trading Commission, and were the initial focus of the work of the Commission. Consumer protection also is part of the Commission’s work. In the meanwhile, the Commissioner proceeded to recruit staff, and get technical assistance to train them in competition law and investigation procedures. By the time the law was passed, the Commission was ready to start operating. It is important to note that by having a tangible Commission and staff, Barbados was able to get technical assistance for training in a way that would have been impossible if they just had a draft law pending approval. Other countries should follow this example.

8. Jamaica’s experience in the early years of the Commission’s life provides a good example of how important it is to exercise prosecutorial discretion, particularly in choosing the first cases very carefully in order to build the good reputation of the Commission, and win credibility with the private sector and consumers. The Commission in Jamaica chose as one of its first cases, to challenge the Bar Association, claiming that the Canons of Professional Ethics, including restrictions on advertising and fixing of fees, were inconsistent with the Fair Competition Act. The issue got wide publicity and the Commission lost the case, and credibility. The verdict was that the General Council of the Bar Association and the professional ethics that govern the legal profession are not subjected to the Fair Competition Act. It is important to choose cases that are easy to investigate and to win, and that the issues are easily understood by the public and directly affects the pockets of all levels in the society, such as a case against the Baker’s Association for fixing prices.

9. The need for political independence of the Commission is even more important in small economies, given the ease of access to politicians, and the cronyism between the business and political elites. Governance issues featured prominently in the findings of the interviews, and it should be
considered seriously when developing the institutional framework for the competition regime and the powers of the Commission.

10. Ensure that there are built-in measures to require MNCs to cooperate in investigations. The Zambian Competition Authority had so much trouble getting information from Coco Cola that the government passed a law making it punishable by incarceration if a firm fails to cooperate. They immediately got cooperation, once the law was passed. While this is an extreme example, there must be less draconian means by which MNCs could be persuaded to cooperate.

11. It is clear that a very well formulated programme of technical assistance is required for the region. However, the CARICOM Secretariat is in the process of organizing such assistance. This should include developing capacity to offer courses in competition law at the university, so as to have sustainable training of human resources for the region.

**FTAA Negotiations**

CARICOM countries should consider the following when developing positions for negotiating the Draft Chapter on Competition Policy in the FTAA.

1. Article 6.2, bullet 3 calls for parties to proscribe [concentrations, mergers, or acquisitions [with [substantial] anti-competitive effect] [whose consequences harm economic efficiency and consumer welfare]].

While the findings of this research support a limited application of MCR, it argues against using pure competition criteria to evaluate mergers. Concentrations are inevitable in small economies, and indeed, may be necessary to ensure long-term viability of firms.

Be this as it may, CARICOM countries would need to be exempted from the obligation to include MCR in its competition regime since there is no regional consensus on its merits for small economies, and it is not included in the CARICOM competition regime. There is a need to re-open this debate in the region.

2. Art. 9.2 [Legal] [designated] monopolies

This article calls for wide ranging limitations on the conduct of designated monopolies and state owned enterprises. The provision in Article 6.1 of the draft bracketed text would cover designated monopolies and state owned enterprises. Under the CARICOM competition regime, all economic entities, including state-owned enterprises and legal monopolies, are subjected to the competition
regime. However, article 9.2 seems to go much further than simply applying competition law to these enterprises, and this will be considered in more depth later. In the meantime, it is necessary to secure exemption for legal monopolies for the Bahamas because of the legal monopolies in Freeport which are operating under the Hawksbill Creek Agreement that has been enshrined in Parliament. It may require that such firms in Freeport be exempt from the Competition Law, should there be one in the Bahamas. Therefore, special exemption or S&D treatment for the Bahamas, and indeed, all of CARICOM, may be required in the FTAA in respect of this provision.

3. Article 10 State Aids

The research findings are that State Aid is not prevalent in the countries studied. Only in Belize were there direct transfers to firms in the milpa rice producing sector, which constitute the majority of rice farmers (peasant farming) but only a small percentage of production. The government also supports soybean production. Should there be inclusion in the chapter of provisions on State Aid, exemption for this sector could be sought. However, it is necessary to know what state aid applies in all CARICOM countries before a firm position can be adopted on this issue.

Transitional measures will have to worked out provision by provision, based on the complexity of the requirement, the capacity to implement, and the internal implementation plans of CARICOM. This and other S&D considerations and proposed positions for the negotiations will be worked out separately for submission to the RNM. A comparison of the provisions of Chapter VIII with that of the draft chapter in the FTAA has been done and submitted to the RNM separately.
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