The social and labour dimensions of globalization and integration process. Experience of CARICOM

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Working Paper Nº 146
**Social dimension of globalization and integration processes**
*J. Somavía, A. Muñoz, M. C. Ferreira, P. Verge, M. Verea, T. Sala*

Working Paper Nº 147
**Labour reforms and integration processes in the member states of the OAS: 1980-2000**
*A. Ciudad*

Working Paper Nº 148
**Labour Inspection within a modernized Labour Administration**
*V. Jatobá*

Working Paper Nº 149
**Labour Justice and alternative dispute resolution of collective and individual labour conflicts**
*J. Sappia*

Working Paper Nº 150
**Labour training policies in the OAS countries**
*J.M. Rodríguez*

Working Paper Nº 151
**Worker’s unemployment protection systems in the OAS countries**
*G. Islas*

Working Paper Nº 152
**The social and labour dimensions of globalization and integration process. Experience of CARICOM**
*W. Mark, V. Oxman*

Working Paper Nº 153
**The Americas: Social dialogue and current processes of economic and technological changes**
*E. Morgado*
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This working paper is part of a series of publications that were the outcome of the activities carried out by The “Fundamental Principles and Rights at Work in the context of the XI Interamerican Conference of Labor Ministers of The OAS” Project. This Project was sponsored by The United States Department of Labor and executed by ILO’s Regional Office in close collaboration with its headquarters Declaration Infocus Program in Geneva. Mr. Luis Miguel Díaz, along with a team of collaborators, was responsible for the Project that was carried out in The Americas.

The document refers to the different aspects that are related to the social scope of globalization and the integration process that is under way, particularly, in the Community of the Caribbean Countries. Beginning with the different advancements that the mentioned integration process has experienced in its race towards the Common Market.

Subsequently, labor institutions associated to the integration process are introduced and analyzed. These institutions have as their common basis the variety of similar experiences they underwent, helping them advance towards homogeneous norms. Such norms would help them achieve a Draft Labor Code to which different legislations have been adapting to.

Similar characteristics such as: geography, history, culture, and in many countries even language, have favored this singular experience. To these are added subregional social actors that have the representation as observers before the highest CARICOM levels. This renders a very interesting social participation and dialogue element, worthy of a later in depth analysis.

Similarly this paper will show the different aspects tackled by all countries and in particular in those economies where labor reforms were introduced to adapt productive processes to the new realities of an ever changing world. Even though, they are succinctly described, they are given an over all look that allows us to see which are the most current issues of the CARICOM countries.

The different concerns related to the modernization of Labor Management in these countries, are also looked at. It includes an up dated answer to new labor requirements and challenges. It is of up most importance for the author, a greater Labor Ministries positioning in reference to the increasing importance of human resources as an indispensable human capital element for the economies.

Finally we are shown the issue of conflict and the steps on how to treat it. It includes all different aspects of the social dialogue that ends up with a grater social assimilation of the process of change that is taking place, sensitizing citizens to its requirements.

All these papers were commended by the above mentioned Project. They were shown and discussed at CARICOM’s member countries meeting held at Port of Spain in August, 2001. The meeting had the participation of high level representative delegations from the Ministries of Labors of all member countries. Unions and employers organizations were there as well facilitated by the cooperation of ILO’s ETM found in the city. At the meeting,
extremely valuable contributions that are shown in this paper, were compiled and included in the consultant's final report.

The aim of the Meeting was to also have a debate on the issues that had been discussed in the Interamerican Conference of Labor Ministers, so as to incorporate the different perspectives and contributions of such unique integration experience as well as its views on labor issues. According to many testimonies, the aim of the meeting was fully achieved.

The project that allowed this meeting and papers take shape counted on Cecilia Huneeus’ assistance and María Inés Opazo’s collaboration in the publishing process. The editing of texts were done by the consultants Mario Velásquez and Pablo Lazo.

Agustín Muñoz
ILO’S Regional Director for the Americas

Lima, June 2002
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section I</th>
<th>THE SOCIAL AND LABOUR DIMENSIONS OF GLOBALIZATION AND INTEGRATION PROCESS</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Executive Summary</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Introduction</td>
<td>1</td>
</tr>
<tr>
<td>A.</td>
<td>Trade blocs and the labour market</td>
<td>2</td>
</tr>
<tr>
<td>B.</td>
<td>Labour effects from globalization and integration</td>
<td>2</td>
</tr>
<tr>
<td>C.</td>
<td>The establishment of the Single Market and Economy</td>
<td>3</td>
</tr>
<tr>
<td>D.</td>
<td>Protocols</td>
<td>4</td>
</tr>
<tr>
<td>1.</td>
<td>Signed Protocols</td>
<td>4</td>
</tr>
<tr>
<td>2.</td>
<td>Scope</td>
<td>5</td>
</tr>
<tr>
<td>3.</td>
<td>Obligations of Member States</td>
<td>5</td>
</tr>
<tr>
<td>4.</td>
<td>Rights of Member States</td>
<td>5</td>
</tr>
<tr>
<td>5.</td>
<td>Role of CARICOM organs</td>
<td>6</td>
</tr>
<tr>
<td>E.</td>
<td>CARICOM and labour law agreements</td>
<td>6</td>
</tr>
<tr>
<td>F.</td>
<td>The performance of institutions in the context of Caribbean Single Market and Economy</td>
<td>7</td>
</tr>
<tr>
<td>G.</td>
<td>The impact of the Single Market and Economy on labour practices: Compliance and enforcement</td>
<td>9</td>
</tr>
<tr>
<td>1.</td>
<td>Standing Committee of Ministers responsible for Labour</td>
<td>9</td>
</tr>
<tr>
<td>2.</td>
<td>The Council for Human and Social Development</td>
<td>9</td>
</tr>
<tr>
<td>3.</td>
<td>A special meeting of the COHSOD</td>
<td>9</td>
</tr>
<tr>
<td>4.</td>
<td>The Annual Conference of Heads of Government</td>
<td>9</td>
</tr>
<tr>
<td>5.</td>
<td>Technical Advisory Council</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>Tables and Annex</td>
<td>11</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section II</th>
<th>LABOUR LAWS IMPLEMENTED OR BEING IMPLEMENTED IN THE CARIBBEAN COMMUNITY</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Executive Summary</td>
<td>26</td>
</tr>
<tr>
<td></td>
<td>Introduction</td>
<td>27</td>
</tr>
<tr>
<td>A.</td>
<td>Steps taken by the Caribbean Community as a whole</td>
<td>28</td>
</tr>
<tr>
<td>1.</td>
<td>Declaration of Labour and Industrial Relations Principles</td>
<td>28</td>
</tr>
<tr>
<td>2.</td>
<td>Caribbean Community model legislation</td>
<td>28</td>
</tr>
</tbody>
</table>
## B. Legislation of individual member states of the Caribbean Community

1. Contracts of employment
2. Freedom of association, right to organise and compulsory recognition of Trade Unions
3. Good faith bargaining and sanctity of collective agreements
4. Recognition of the principles and practices of good industrial relations
5. Protection against arbitrary dismissal
6. Retrenchment and severance benefits
7. Protection of workers’ wages from unauthorized deductions
8. Maternity leave and benefits
9. Holidays with pay
10. Minimum wages
11. Health, safety and welfare of workers
12. Industrial injury compensation
13. Equal opportunity
14. Industrial relations offences
15. Industrial action

## C. Methods of enforcement and machinery for settlement of trade disputes by an impartial and independent tribunal

## D. Judgements of Courts and Tribunals

## E. Draft Labour Code

| Conclusion | 40 |
| Annex 1 | 45 |
| Bibliography | 47 |

## Section III

MODERNIZATION AND LABOUR ADMINISTRATION: REQUIREMENTS AND CHALLENGES

### Executive Summary

Introduction

#### A. New challenges

1. Overview of experiences
2. Monitoring, compliance and enforcement infrastructure
3. Social dialogue
4. Human resource development
5. Status of Labour Ministries

#### B. A status report on new initiatives

| Annex | 57 |
| Annex 1 | 59 |
| Annex 2 | 61 |
| Bibliography | 63 |
Section IV
SOCIAL DIALOGUE AND ALTERNATIVE DISPUTE RESOLUTION.
FORMAL AND INFORMAL MACHINERY AROUND THE DESIGN
OF POLICIES IN THE CARICOM

Executive Summary 65
Major findings 65
Introduction 66

A. Background 67
B. Formal and informal machinery for consultation and dialogue involving
employers and workers in respect of policies in CARICOM 68
C. Experience on agreements on wage policy, employment policy
and social dialogue 71
D. The critical issue of trust in social dialogue 72
E. Country analysis 72
F. Analysis of machinery which seeks to cover partipant sectors 78
G. Alternative tools on conflict resolution in CARICOM 79
H. Conflict self resolution. Different approaches 80

Conclusions 81
Bibliography 83

Section V
ON THE ROAD TO HEMISPHERIC INTEGRATION: THE LABOUR AGENDA 85

Introduction 85

A. Integration and the changes in employment and labour 86
B. Regional integration agreements 88
C. The Labour Agenda 91
D. III Summit- Quebec 2001 and the Ottawa Declaration 94
E. Practical issues for the Labour Agenda 96

Annex 1 101
Bibliography 103
Section I
THE SOCIAL AND LABOUR DIMENSIONS OF GLOBALIZATION AND INTEGRATION PROCESS

Executive Summary

In the last decade, globalization and liberalization have been the focus of many nations. Related to this is the phenomenon where trade blocs are being formed with intensity. The Caribbean’s latest move, in terms of integration, involves the formation of a Single Market and Economy. This process aims at widening and deepening the integration process.

In this whole dynamic environment, the labour market is not immune. A critical component of the Single Market and Economy is an arrangement which allows CARICOM people to move throughout the Caribbean Community without restrictions, so as to achieve a single, large economic space. In order to ensure free movement, laws have to be harmonized. In this regard, the region has already achieved the following:

Four CARICOM Model Laws have been completed:

- Termination of Employment.
- Trade Union Recognition.
- Occupational, Safety and Health and the Working Environment.
- Equality of Opportunity and Treatment

So far, 4 countries have passed Termination of Employment legislation and a few others have such legislation in draft form. Four countries have passed Trade Union Recognition Laws. In some cases, this is also in draft. A similar amount of countries have passed Equality of Opportunity and Non-Discrimination in Employment Laws and 6 countries have passed Occupational Health, Safety and Working Environment Laws. A number of other countries need to show commitment to these model laws.

Eleven countries have passed legislation with respect to the free movement of University Graduates, but most countries have not yet passed legislation to implement free movement of the other approved categories of workers. Many countries have recently signed Social Security agreements.

A lot of issues have to be resolved. These include:
- Passport requirements.
- Work permit issues.
- Development of skills register and other issues.

It is critical that all issues with respect to the free movement of people, the passage of labour laws and dispute settlement mechanisms be sorted out in the region. The success and competitiveness of the region depends on these laws if the Single Market and Economy is to be a reality.

Introduction

In the last decade, concepts such as globalization and liberalization have been the focus of many nations. Related to this is the formation of trade blocs which have intensified. The Caribbean region has been involved in the process of globalization and the development of trade blocs since 1968. The Caribbean region, in its attempt at integration, has moved through arrangements, starting with Federation in 1958, then CARIFTA in 1970 – 1973, and finally CARICOM – The Caribbean Community – since 1973.

The latest stage of this arrangement is the CARICOM Single Market and Economy. This process is extremely extensive, as it aims at widening and deepening the integration

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process. In this whole scenario, the labour market is not immune from developments with respect to the Single Market and Economy. This working paper seeks to explore some of these issues.

A. Trade blocs and the labour market

International economic integration, in the form of trade blocs, has been growing in importance for quite a number of years. It is concerned with the discriminatory removal of all trade impediments between at least two participating nations and with the establishment of certain elements of cooperation and coordination. The latter depends entirely on the actual form that integration takes. In the context of trade blocs, integration can move through stages, from a free trade area to a complete economic union. But membership of an economic grouping cannot guarantee that a country or the group will perform satisfactorily. It is not a necessary economic condition for economic success that a country should be a member of an economic community as the experience of some countries have confirmed. Although integration is clearly no panacea for all economic ills nor indispensable to success, there are many convincing reasons for supporting the belief that significant benefits may be derived from properly conceived arrangements for economic integration.

In the last few decades, there has been a lot of trade or economic integration. Today, there is the European Union, MERCOSUR, NAFTA and CARICOM, just to mention a few. These trade integration movements or arrangements seek to free up trade and reduce or suppress tariffs and non-tariff barriers. In the context of the Caribbean, there are two processes that are influencing their economic performance and the composition of the productive structure. Caribbean countries are today involved in the opening up of their markets and in greater global integration. Additionally, they are involved in an adjustment process which is necessary if they are to recover and sustain macroeconomic balance and adapt to the variations in international economies on account of globalization.

Accelerated integration in the Caribbean in the context of globalization has manifested itself in a number of ways. First, on account of multilateralism, several Caribbean nations have adhered to the results of the Uruguay Round of GATT and the majority have ratified their incorporation into the World Trade Organization. In doing so, they have committed themselves to the objective of promoting free trade, with less barriers and easier access to world markets.

Secondly, there has been unilateral reduction of tariffs, which has contributed to market expansion. This is a new precedent, because in the 1970’s and 1980’s, tariff rates were very high. However, since the 1990’s, average tariff levels have declined from 30% in some cases to zero percent in others. The third route to integration lies in the growing number of bilateral agreements on free trade which exists while the fourth way embodies multilateral integration agreements. The existing integration scheme in the Caribbean is CARICOM, the Caribbean Common Market. CARICOM is still going through several phases, its latest is the creation of a Single Market and Economy. The process is ongoing and dynamic.

In the context of the labour market and the outcome of globalization and adjustment, the labour market is not immune. Employment, wages, labour relations and social protection coverage are all affected negatively in the short-run. This means that policy proposals should seek to achieve equity, especially among the more vulnerable, so that balance can be created between economic efficiency and social progress.

B. Labour effects from globalization and integration

It is expected that labour will be impacted in mainly four ways as a result of the openness of trade and economic integration. First, there can be an increase in unemployment on account of a reduction in employment growth. This occurs because the demand for unskilled labour and lower wages increases. Secondly, a cut in public employment and a diminishing role of the state as an employer of first resort usually occurs. This is due to the fact that there is usually an increase in private employment, especially in the non-tradable
and exporting sectors, which will offset the possible decline of employment in the tradable sectors that are competing with imported goods. Additionally, there is an increase in unskilled private employment and temporary work contracts and an expansion of the informal sector. Thirdly, an increase in productivity is another outcome of integration, principally in the sectors that supply tradable goods and services. Fourthly, an alleviation of poverty and an improvement in the welfare of the population in general is assumed.

While there may be a positive aspect of opening up on the labour market, usually viewed in terms of lower inflation and an increase in the demand for unskilled labour, the increase in overall unemployment as well as the significant expansion of poor quality employment and the negative behaviour of wage differentials has created negative consequences. The first is recurrent unstable and insecure labour, the second element consists of inequality in areas of productivity, income, labour protection, social security and bargaining capacities. The expansion of informal jobs of extremely poor quality as well as precarious employment (wage earners with short-term or no contracts), is also related to a weakened trade union movement.

Finally, the third element, brought on by the previous two, is the disparate social structure that is manifested by the high percentage of the population who are socially excluded, due to an erosion of their possibilities to access quality jobs, quality education, adequate health services and cultural development.

Liberalization and the formation of trade blocs can create a paradoxical situation. On the one hand, a country can have economic growth, low inflation and new jobs. While a vast section of the population feels insecure about the future the challenge therefore is to create employment while respecting the fundamental rights of workers creating the necessary laws and regulations to defend and support the worker. The law must also ensure harmony amongst workers, the employers and government.

C. The establishment of the Single Market and Economy

In 1989, the Conference of Heads of Government of the Caribbean took a decision by way of a Declaration – The Grande Anse Declaration – to work towards the establishment of the Caribbean Single Market Economy (CSME) by 1993. They also agreed on a programme of action to be executed in the pursuit of this goal. The implementation of the programme was to begin immediately, starting with the removal of all barriers to intra-regional trade and the introduction of a revamped Common External Tariff (CET) and revised Rules of Origin for goods. Building on the Grande Anse Declaration and Programme of Action the Caribbean Heads have succeeded in drawing up a clear blue print for the Single Market and Economy.

The motivating factor in the determination to establish the CSME was the perceived need “to deepen the integration process and strengthen the Caribbean Community in all of its dimensions, to respond to the challenges and opportunities presented by changes in the global economy”. Chief among these were the trend of liberalisation of trade and other economic activities, the rising phenomenon of globalisation and the emergence and expansion of regional economic blocs.

The Caribbean Single Market and Economy can best be described by reference to its two broad components:
- The Single Market – it is an arrangement which allows CARICOM goods, services, people and capital to move through the Caribbean Community without tariffs and without restrictions so as to achieve a single large economic space, and to provide for a common economic and trade policy.
- The single Economy – this is an arrangement which furthers the harmonious economic, monetary and fiscal policies and measures across all member states of the Caribbean Community to maintain the sustainable development of the region. This would mean the coordination of foreign
exchange and interest rate policies, the harmonization of tax regimes and of laws, the convergence of economic performance and a common currency, among other measures.

The rationale for the establishment of the CSME is that there is more economic and political strength from the concerted efforts of all the Caribbean states as against the efforts of a single state. Together these countries face improved prospects within such a framework and opportunities for employment, investment, production and trade for over six million inhabitants of the Caribbean Community could clearly be greatly enhanced.

The Conference in 1992, agreed that it was necessary to amend the Treaty of Chaguaramas to give legal effect to the implementation of the CSME. The route by way of Protocols was decided on so that the revised provisions of the Treaty could be implemented as soon as they were agreed rather than waiting on a completely revised Treaty. It was therefore decided to amend the Treaty by means of Protocols. An Inter-Governmental Task Force was established to supervise this revision.

A total of 9 Protocols are involved in this revision. They focus on the following areas:
- Restructuring of the organs and institutions of the community (Protocol I).
- Establishment, provision of services and movement of capital (Protocol II).
- Industrial policy (Protocol III).
- Trade policy (Protocol IV).
- Agricultural policy (Protocol V).
- Transportation policy (Protocol VI).
- Disadvantaged countries, regions and sectors (Protocol VII).
- Disputes settlement (Protocol VIII).

To date, four (4) Protocols have been approved by the Heads – Protocols I, II, III and V. Two of them are being implemented on a provisional basis – Protocols I and II. Another three (3) Protocols IV, VI and VII – are expected to be signed by the Heads of Government. The other two (2) – Protocols VIII and IX – are still under preparation.

D. Protocols

1. Signed Protocols

a) Protocol I

Protocol I deals with the revision of the institutions of the Community to respond to the requirements of the Single Market and Economy. In brief, the Community continues to exist as an association of sovereign states and this status is confirmed by the retention of the unanimity rule for decision-making on substantive issues in the Conference. The said unanimity rule has however been relaxed in the other organs. For example, voting in Ministerial Councils is now by qualified majority vote (Article 19 [1]); and this has been interpreted to mean an affirmative vote of member states comprising no less than three quarters of the membership of the Community. This would allow for a less protracted decision-making process within the Community.

The Conference retains its position as the supreme organ while the Community Council of Ministers replaces the Common Market Council as the second highest decision-making organ.

These two principal policy making bodies are assisted by a number of Councils which replaced the Common Market Council and the various Standing Committees:
- The Council for Trade and Economic Development (COTED) which deals with matters relating to trade, agriculture, industry, transport and science and technology.
- The Council for Foreign and Community Relations (COFCOR) which deals with external relations.
- The Council for Finance and Planning (COFAP) which deals with monetary and financial matters.
- The Council for Social and Human Development (COHSOD) which deals with functional cooperation matters.
Other supporting bodies are the Legal Affairs Committee, the Committee of Central Bank Governors and the Budget Committee.

b) Protocol II

Protocol II addresses the right of establishment, the right to provide services and the right to move capital by any CARICOM national in the Community.

The basic objectives of this Protocol are:
- To complete the creation of the Single Market by adding to the free movement of goods, the free movement of services, the unrestricted free movement of capital, the free movement of selected categories of skills and the right of CARICOM nationals to set up businesses in any CARICOM country.
- To ensure national treatment and non-discrimination of CARICOM nationals who wish to carry on business in any CARICOM member state.
- To create more business and employment opportunities and to open opportunities for trade in services.

2. Scope

The Protocol covers (Article 35) all services except:
- Activities involving the exercise of governmental authority, namely:
  ▪ Central banking and monetary authorities.
  ▪ Social security or public retirement plans.
  ▪ National Security.
  ▪ Monopolies which may obstruct the rights of establishment but which are deemed by Government to be in the public interest.

3. Obligations of Member States

The obligations of Member States are as follows:
- Member States are now prohibited (Article 35B) from introducing any new restrictions on:
  ▪ The right of establishment.
  ▪ The provision of services.
  ▪ The movement of capital and payments.
- Member States are required to notify COTED of any restrictions on the right of establishment and the provision of services.
  ▪ Restrictions on the right of establishment.
  ▪ Discriminatory restrictions on banking, insurance and financial services.
  ▪ Restrictions on movement of capital and all current payments.
  ▪ Administrative practices and procedures which restrict establishment and the provision of services.
  ▪ Restrictions on the movement of managerial, technical, supervisory staff, including spouses and immediate family members.
  ▪ Restrictions on the establishment of agencies, branches and subsidiaries of companies of CARICOM nationals.
  ▪ Restrictions on access of land, buildings and property essential to carry on business.

Member States must establish requisite administrative arrangements for common educational standards, certificates/qualifications and to determine their equivalency or accord accreditation.

4. Rights of Member States

Member States have the following rights under the Protocol:
- To restrict competition by means of public monopolies
- To restrict competition in certain financial services
- To apply restrictions on goods, services, capital and establishment to correct balance of payment difficulties
- To protect domestic service providers who face a serious threat or are injured by regional competition
- To apply restrictions in the public interest or for security reasons
- To apply, if needed, for a waiver to maintain restrictions on establishment, services and movement of capital (Article 38b).
5. **Role of CARICOM organs**

The following responsibilities have been assigned to the CARICOM organs:

- The establishment of programmes for the removal of existing restrictions.
- The surveillance of the laws and administrative actions and other measures which are inconsistent with the Protocol to ensure that such measures are removed.
- The review of restrictions which are authorised.

As can be seen from these, CARICOM has had a labour dimension as exemplified in the preamble to the Treaty establishing CARICOM. In the preamble, it is stated that the governments share a common determination to fulfil the hopes and aspirations of their people for full employment and improvement in work standards. Additionally, in order to discuss cooperation in labour matters and develop and implement labour policies, under CARICOM, Article 10 provides for the creation of a Standing Committee of Ministers responsible for labour, as one of the Institutions of the Community. Today, under the CARICOM Single Market and Economy, there is the clear labour dimension which refers to the free movement of labour. Under the Grand Anse Declaration of 1989, there must be free movement for work purposes of skilled and professional personnel, contract workers, workers on a seasonal or project basis, sports persons, visual and performing artistes and media workers travelling for a specific regional event.

Apart from these model laws, most countries in CARICOM have passed laws dealing with:
- Employment services.
- Employment of children.
- Freedom of Movement of skilled workers.
- Holiday with Pay.
- Industrial Court/Industrial dispute.
- Settlement machinery.
- Maternity Leave.
- Minimum Wage.
- Severance Pay.
- Social Security.
- Unemployment Insurance.

E. **CARICOM and labour law agreements**

Under the Single Market and Economy, an attempt has been made to harmonize Labour Law. This is a creative initiative designed to grapple with the implications of recognizing the free movement of persons within the Caribbean Community. Harmonization is not merely an attempt to retain the current status of the Laws, but is also an opportunity to improve them.

To date, four CARICOM model Laws have been completed. They are:
- Termination of Employment.
- Trade Union Recognition.
- Occupational, Safety and Health and the Working Environment.
- Equality of Opportunity and Treatment.

These model laws and other pieces of legislation have already been the basis of Labour Law reform in several Caribbean states. Table 1 shows the status of the CARICOM Model Labour legislation at the National Level. Table 2 shows the Single Market and Economy and the latest position with respect to Free Movement of University Graduates, Free Movement of the other Approved Categories, Establishment of Services and Social Security.

The decision to draft model Labour Laws in CARICOM fashions a way for small states which face competition from liberalization, and which need to attract foreign investment, to address sensitive policy issues on which they would prefer not to compete in a collective manner. It allows these states to update and render more accessible, legislation that may still reflect pre-colonial norms and be ill suited to contemporary concerns. They allow tripartite arrangements and an accepted regulatory framework.

With respect to the free movement of people, eleven CARICOM Member States have already enacted the necessary enabling legislation as shown in Table 2. In the case of Suriname, the approach to these matters is different. In that country, no legislation will be passed, but the agreement becomes law upon ratification. The making of the terms of the Freedom of Movement Agreement will shortly become fully operational.
Free Movement is already partially in effect in some countries. In Jamaica, for example, a St. Lucian, a Triniadian or a Surinamese with a degree from a recognized University outside the region would be admitted freely, on the presentation of certain required documentation, in circumstances where formally a work permit would be required. Social Security agreements have also been signed and the agreements are now being ironed out.

Annex I presents the status of I.D. cards and other issues while Annex 2 presents the status with respect to passport requirements, work permits and the position of some of the other issues with respect to the Single Market and Economy.

**F. The performance of institutions in the context of Caribbean Single Market and Economy**

In a comprehensive and completely integrated Caribbean economy, there would hopefully be absolutely no barriers to trade, capital flows, technology and know-how and the movement of labour. Economic integration as a process would guarantee the liberation of these barriers in the not too distant future. This is what the Caribbean Single Market and economy is supposed to achieve; the unrestrained movement of capital, services, people and skills.

The thirteenth Meeting of the Conference of Heads of Government held in 1992 in Port of Spain, Trinidad and Tobago agreed to the broad goals of CARICOM – a viable economic, social and cultural community with the related primary objectives of:
- The guarantee of full employment of labour and other factors of production.
- Improved standards of living and the guarantee of work.
- Accelerated coordinated and sustained economic development.

The objectives of the Caribbean Single Market and economy are viz:
- Full employment of all Factors of Production.
- Improved standards of living and the guarantee of work.
- Accelerated, coordinated and sustained economic development.
- Increased economic leverage and effectiveness vis-à-vis other States, Groups and Entities.
- Expansion of Trade and Economic Relations with other Caribbean Countries, Central and Latin American countries.
- The achievement of increasing levels of competitiveness.
- Organization for increased production.

The establishment of the Caribbean Single Market and Economy will forever remain an elusive dream without the full involvement and effective participation of the social partners in the broad decision-making process. Reference is made not only to the Labour Movement and the Business Sector, but also to civil society inclusive of non-governmental organisations.

Although there currently exists no provision in the various protocols amending the Treaty of Chaguaramas which enable the free movement of labour in the Region, a policy directive manifested in a decision of Heads of Government in 1996 states that:

“Member States adopt a broad policy, which would permit the general extension of the risks of freedom of movement to CARICOM Nationals as their circumstances permit and as agreed by the Heads of Government.”

The issue of the free movement of labour is so fundamental to the establishment of a Caribbean Single Market and Economy that it is essential to address its current status at a later stage of this presentation.

In the context of the CSME, CARICOM seeks to promote a harmonious industrial relations climate which is captured in Protocol III under the rubric of Industrial Policy.

Article 49(b) of the Protocol outlines that:

“The Council for Human and Social Development (COHSOD) shall, in consultation with the Council for Trade and Economic Development (COTED), formulate proposals and adopt appropriate measures for the provision of harmonious, stable and enlightened industrial relations in the Community. In formalizing such measures and proposals, the COHSOD shall inter alia, promote:

i) The objectives of full employment; improved living and working conditions; adequate social security policies and programmes; tripartite consultations among
Governments, workers and employers, organizations and cross border mobility of labour.

“ii) The recognition of the principle of non-discrimination;

“iii) The establishment and maintenance of effective mechanisms for the enhancement of industrial relations, particularly that of collective bargaining; and

“iv) Awareness among community workers and employers that international competitiveness is essential for social and economic development of Member States and requires collaboration of employers and workers for increased production and productivity in community enterprises”.

To further emphasize the significance of social partners in the process of economic integration and CARICOM’s commitment towards the establishment of the CSME, a Declaration of Labour and Industrial Relations Principles was unanimously approved in April 1995 by the Ministers of Labour in CARICOM after intensive tripartite discussions and consultations.

The critical importance of the Declaration was outlined in the foreword by CARICOM’s Secretary General when he declared that:

“The Declaration sets out the general Labour Policy to which the Region aspires, consistent with international labour standards and other international instruments. It is an important guide in labour matters for the social partners and will contribute to the development of a healthy industrial relations climate, and enhanced social partnerships. It underscores the rights and responsibilities of the social partners, and provides the basis for the development of national labour policies and inform the enactment of legislation.”

In an attempt to reinforce the crucial role of labour in the integration process and attempting to establish a possible social floor, the CARICOM Member States have also established “The Charter of Civil Society” which sets out among other things, a clear position on workers’ rights in Article X1X and the importance of the Social Partners in Article XX11.

These developments, along with others such as the ILO Declaration of Fundamental Principles and Right(s) at work and the UN Global Compact, are crucial when assessing the real performance of the institutions and machinery created to comply with the Caribbean Single Market and Economy.

In its quest to accelerate its drive towards the full establishment of the CSME, CARICOM has created a number of institutions aimed at ensuring and guaranteeing the participation of the social partners in the integration process.

First, there was the Standing Committee of Ministers of Labour charged with the responsibility of ensuring the promotion of social dialogue among the social partners. This Standing Committee has now been replaced by the Council for Human and Social Development (COHSOD). This council is charged with the responsibility of formulation proposals and adopting appropriate measures for the promotion of harmonious, stable and enlightened industrial relation in the Community.

Secondly, there is the Business and Labour Advisory Committee which comprises of Business, Labour and Civil Society.

The Conference of Heads of Government is the highest organ of the community and has both CCL and the CAIC in an observer capacity.

Finally there is the meeting of Permanent Secretaries of Ministers of Labour. The CCL and the Caribbean Employers Confederations.

There is no specific machinery established in the Community to promote social dialogue, effective participation and meaningful consultation.

The monitoring function is the responsibility of the Community Council of Ministers which is the second highest body of the Community and which is responsible for strategic plans and coordination in economic integration, structural cooperation and external relations. The Community Council also assumes responsibility for the financial arrangements of the Community.

The yet to be established Caribbean Court of Justice is the body vested with the original
jurisdiction in respect of the interpretation and application of the Treaty establishing the Caribbean Community. The CCJ will exercise both an appellate and original jurisdiction.

G. The impact of the Single Market and Economy on labour practices: Compliance and enforcement

1. Standing Committee of Ministers responsible for Labour

The Caribbean Employers’ Confederation (CEC) and the Caribbean Congress of Labour (CCL) were invited in the past to participate as observers during the Meetings of the Standing Committee of Ministers responsible for Labour. Observer Status meant that the representatives of these organisations were not able to vote, however they were allowed to participate fully in all discussions. This mechanism has worked well as the Ministers of Labour usually took the views of the social partners into consideration before arriving at decisions.

Furthermore, the Representatives of the social partners were also allowed to participate in Working Groups. They were thus in a position to influence the output of the Working Groups, which were submitted to the Ministers of Labour.

2. The Council for Human and Social Development

After Protocol I came into effect, the Standing Committee of Ministers responsible for Labour was incorporated in the Council for Human and Social Development (COHSOD), just like the other social Standing Committees.

Since 1999 the social partners have been invited to all Meetings of the COHSOD. It is too early to tell if this mechanism was successful, because since 1999, only three Meetings have been held. Just like Member States, the social partners are still getting used to dealing with social issues in a more integrated fashion instead of in a “piece meal” manner.

3. A special meeting of the COHSOD

The rules of procedure of COHSOD provide for the convening of a Special COHSOD. This means that social Ministers of a special sector can still meet to discuss specialised issues.

The Secretariat will use this mechanism to bring Ministers of Labour together on a biannual basis starting in 2003, in order to discuss in a focused way the challenges facing labour and other critical matters. The output of these Special COHSOD’s will have to be presented at the regular Meeting of COHSOD.

4. The Annual Conference of Heads of Government

The CCL has Observer Status at the Annual Meeting of the Conference of Heads. The CEC does not have this status as the CAIC is invited to Meetings of the Heads. The CEC is however the regional umbrella organisation, which is best suited to discuss labour matters.

5. Technical Advisory Council

During the last Inter-Sessional Meeting the Conference of Heads agreed to the setting up of a Technical Advisory Council on the CSME. The Committee would have representation of private sector organisations and the labour movement. The Technical Advisory Council will cooperate with the Secretariat in the identification of studies, which are deemed necessary and on the prescription of new policies that might be approved to advance the CSME. This council is not yet operational.
TABLES AND ANNEX
### Table 1

**STATUS OF THE CARICOM MODEL LABOUR LEGISLATION AT THE NATIONAL LEVEL**

<table>
<thead>
<tr>
<th>MEMBER STATES</th>
<th>TERMINATION OF EMPLOYMENT</th>
<th>REGISTRATION, STATUS AND RECOGNITION OF TRADE UNIONS AND EMPLOYERS ORGANISATIONS</th>
<th>EQUALITY OF OPPORTUNITY AND NON-DISCRIMINATION IN EMPLOYMENT</th>
<th>OCCUPATIONAL HEALTH, SAFETY AND WORKING ENVIRONMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antigua and Barbuda</td>
<td>Antigua and Barbuda Constitution&lt;br&gt;Antigua and Barbuda Labour Code&lt;br&gt;Antigua and Barbuda Civil Service Regulations&lt;br&gt;Antigua and Barbuda Civil Service Act</td>
<td>Antigua and Barbuda Constitution&lt;br&gt;Antigua and Barbuda Labour Code&lt;br&gt;Antigua and Barbuda Civil Service Regulations&lt;br&gt;Antigua and Barbuda Civil Service Act</td>
<td>Antigua and Barbuda Constitution&lt;br&gt;Antigua and Barbuda Labour Code&lt;br&gt;Antigua and Barbuda Civil Service Regulations&lt;br&gt;Antigua and Barbuda Civil Service Act</td>
<td>Antigua and Barbuda Constitution&lt;br&gt;Antigua and Barbuda Labour Code&lt;br&gt;Antigua and Barbuda Civil Service Regulations&lt;br&gt;Antigua and Barbuda Civil Service Act</td>
</tr>
<tr>
<td>The Bahamas</td>
<td>Not yet</td>
<td>ILO Convention Act and Amendment Act No. 37/99&lt;br&gt;Statutory Instrument No 33/2000</td>
<td>No yet</td>
<td>No yet</td>
</tr>
<tr>
<td>Belize</td>
<td>Not yet</td>
<td>No need to use the Model legislation as the Protection of Employment Act, Chap. 89.02, 31 March 1977 still is relevant</td>
<td>No need to use the Model legislation as the Trade Unions Act, Chap.89.03, 29 October 1952, the Industrial Relations Act, Chap.89.01, 24 July 1986 and the Trade Disputes (Arbitration and Inquiry) (Claims for Recognition and Conduct of Counts) Regulations SRO, No. 39 of 1968, 12 December 1968 are still relevant</td>
<td>No need to use the Model legislation as the Accidents and Occupational Diseases (Notification) Act, Chap.89:51, 11 February 1952 and the Employment Safety Act, Chap.90:08, 24 February 1983 are still relevant</td>
</tr>
<tr>
<td>Dominica*</td>
<td>No need to use the Model legislation as the Protection of Employment Act, Chap. 89.02, 31 March 1977 still is relevant</td>
<td>No need to use the Model legislation as the Trade Unions Act, Chap.89.03, 29 October 1952, the Industrial Relations Act, Chap.89.01, 24 July 1986 and the Trade Disputes (Arbitration and Inquiry) (Claims for Recognition and Conduct of Counts) Regulations SRO, No. 39 of 1968, 12 December 1968 are still relevant</td>
<td>No need to use the Model legislation as the Labour Standards Act, Chap.89.05, 31 March 1977 and the Labour Contracts Act, Chap.89.04,16 June 1983 are still relevant</td>
<td>No need to use the Model legislation as the Accidents and Occupational Diseases (Notification) Act, Chap.89:51, 11 February 1952 and the Employment Safety Act, Chap.90:08, 24 February 1983 are still relevant</td>
</tr>
</tbody>
</table>

(*) Dominica indicated that it was not necessary to enact the Model Legislation as the Acts were patterned on existing legislation in Dominica. However, before 30 June 2001, the Industrial Relations Advisory Committee will examine the Model Legislation vis-à-vis the existing Labour Laws with a view to redress inconsistencies, if any.
<table>
<thead>
<tr>
<th>MEMBER STATES</th>
<th>TERMINATION OF EMPLOYMENT</th>
<th>REGISTRATION, STATUS AND RECOGNITION OF TRADE UNIONS AND EMPLOYERS = ORGANISATIONS</th>
<th>EQUALITY OF OPPORTUNITY AND NON-DISCRIMINATION IN EMPLOYMENT</th>
<th>OCCUPATIONAL HEALTH, SAFETY AND WORKING ENVIRONMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jamaica</td>
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<tr>
<td>Montserrat</td>
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<tr>
<td>St. Kitts and Nevis</td>
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<tr>
<td>St. Vincent and the Grenadines</td>
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<tr>
<td>Suriname</td>
<td></td>
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</tr>
<tr>
<td>Trinidad and Tobago</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>ASOCIATED MEMBER STATES</th>
<th>ENACTMENT OF LEGISLATION TO IMPLEMENT THE FREE MOVEMENT OF UNIVERSITY GRADUATES</th>
<th>ENACTMENT OF LEGISLATION TO IMPLEMENT THE FREE MOVEMENT OF THE OTHER APPROVED CATEGORIES</th>
<th>EQUALITY OF OPPORTUNITY AND NON-DISCRIMINATION IN EMPLOYMENT</th>
<th>OCCUPATIONAL HEALTH, SAFETY AND WORKING ENVIRONMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anguilla</td>
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</tr>
<tr>
<td>The British Virgin Islands</td>
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<tr>
<td>Turks and Caicos Islands</td>
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<tr>
<td>MEMBER STATES OF THE CARIBBEAN COMMUNITY</td>
<td>ENACTMENT OF LEGISLATION TO IMPLEMENT THE FREE MOVEMENT OF UNIVERSITY GRADUATES</td>
<td>ENACTMENT OF LEGISLATION TO IMPLEMENT THE FREE MOVEMENT OF THE OTHER APPROVED CATEGORIES</td>
<td>ENACTMENT OF LEGISLATION TO IMPLEMENT PROTOCOL II: ESTABLISHMENT, SERVICES, CAPITAL</td>
<td>SIGNING OF THE CARICOM SOCIAL SECURITY AGREEMENT</td>
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<td>----------------------------------------</td>
<td>-----------------------------------------------------------------------------</td>
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<td>--------------------------------------------------------------------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>The Bahamas</td>
<td>Not part of CSME</td>
<td>Not part of CSME</td>
<td>27 October 1999</td>
<td>Not yet</td>
</tr>
<tr>
<td>Barbados</td>
<td>Immigration (Amendment) Act, 1996, Cap. 190</td>
<td>The Free Movement of these categories is being dealt with through an administrative procedure</td>
<td>1 March 1996</td>
<td>28 May 1997</td>
</tr>
<tr>
<td>Guyana</td>
<td>Immigration (Amendment) Act, 1992 No. 9. Section 12 (Suriname must be included) and Caribbean Community (Free Entry of Skilled Nationals) Act, 1996, No. 6</td>
<td>Immigration (Amendment) Act, 1992 No. 9, Section 12 (Suriname must be included) and Caribbean Community (Free Entry of Skilled Nationals) Act, 1996, No. 6 gives the competent Minister the discretion to add additional categories</td>
<td>Not yet</td>
<td>21 March 1996</td>
</tr>
<tr>
<td>MEMBER STATES OF THE CARIBBEAN COMMUNITY</td>
<td>ENACTMENT OF LEGISLATION TO IMPLEMENT THE FREE MOVEMENT OF UNIVERSITY GRADUATES</td>
<td>ENACTMENT OF LEGISLATION TO IMPLEMENT THE FREE MOVEMENT OF THE OTHER APPROVED CATEGORIES</td>
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<td>---------------------------------------------------------------------------------</td>
<td>----------------------------------</td>
</tr>
<tr>
<td>St. Lucia</td>
<td>Caribbean Community Skilled Nationals Act, 1997 No. 12</td>
<td>Not yet</td>
<td>Not yet</td>
<td>1 March 1996</td>
</tr>
<tr>
<td>St. Vincent and the Grenadines</td>
<td>Immigration (Caribbean Community Skilled National Act, 1997, No. 4</td>
<td>Provisions have been made for the listing of additional occupations in Schedule II of the Immigration Skilled.</td>
<td>Not yet</td>
<td>2 July 1997</td>
</tr>
<tr>
<td>Trinidad and Tobago</td>
<td>Immigration (Caribbean Community Skilled Nationals Act, 1996, No. 26, however not yet proclaimed.</td>
<td>Not yet</td>
<td>Not yet</td>
<td>1 March 1996</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ASOCIATED MEMBER STATES OF THE CARIBBEAN COMMUNITY</th>
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<th>ENACTMENT OF LEGISLATION TO IMPLEMENT PROTOCOL II: ESTABLISHMENT, SERVICES, CAPITAL</th>
<th>SIGNING OF THE CARICOM SOCIAL SECURITY AGREEMENT</th>
<th>RATIFICATION OF THE CARICOM SOCIAL SECURITY AGREEMENT</th>
<th>ENACTMENT OF THE CARICOM SOCIAL SECURITY AGREEMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anguilla **</td>
<td>Not part of CSME</td>
<td>Not part of CSME</td>
<td>Not part of CSME</td>
<td>Was invited to accede to the Agreement in 1998</td>
<td>Not yet</td>
<td>Not yet</td>
</tr>
<tr>
<td>Turks and Caicos Islands</td>
<td>Not part of CSME</td>
<td>Not part of CSME</td>
<td>Not part of CSME</td>
<td>Was invited to accede to the Agreement in 1998</td>
<td>Not yet</td>
<td>Not yet</td>
</tr>
<tr>
<td>Suriname</td>
<td>Not yet</td>
<td>Not yet</td>
<td>Not yet</td>
<td>Not yet</td>
<td>Not yet</td>
<td>Not yet</td>
</tr>
</tbody>
</table>

(**) Anguilla, the British Virgin Island and the Turks and Caicos Islands were invited to accede to the agreement to sign the CARICOM Social Security Agreement in 1998.
## Annex 1

<table>
<thead>
<tr>
<th>ISSUE</th>
<th>REQUIRED ACTION</th>
<th>ACTION MANDATED BY</th>
<th>DEADLINE</th>
<th>METHOD TO IMPLEMENT ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regional Accreditation Bodies.</td>
<td>The regional Accreditation Body must be established.</td>
<td>Twelfth Inter-Sessional Meeting of the Conference.</td>
<td>December 2001</td>
<td></td>
</tr>
<tr>
<td>Identification Cards.</td>
<td>1. Apply Identification Cards as prescribed for cultural workers, sport and media personnel.</td>
<td>Twelfth Inter-Sessional Meeting of the Conference.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Identification Cards to be issued by Immigration authorities in consultation with relevant national organisations.</td>
<td>Twelfth Inter-Sessional Meeting of the Conference.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Movement of skilled, semi-skilled and unskilled workers.</td>
<td>Amendment of legislation to include persons with qualifications, such as Certificates and Diplomas from tertiary level institutions other than Universities.</td>
<td>Twelfth Inter-Sessional Meeting of the Conference.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Social Impact of Free Movement.</td>
<td>Analysis of the impact of the full movement of labour.</td>
<td>Twelfth Inter-Sessional Meeting of the Conference.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Social Security Legislation.</td>
<td>Enactment of legislation by Member States, which have not yet done so.</td>
<td>Twelfth Inter-Sessional Meeting of the Conference.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electronic Identification Cards.</td>
<td>Use of electronic Identification Cards for travel within the Community.</td>
<td>Twelfth Inter-Sessional Meeting of the Conference.</td>
<td>January 2003</td>
<td></td>
</tr>
<tr>
<td>CARICOM Passport.</td>
<td>Usage of the CARICOM Passport for external travel and for the entry into the Community.</td>
<td>Twelfth Inter-Sessional Meeting of the Conference.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Common E/D Form.</td>
<td>1. Agreement on core and additional data to be captured by a common E/D Form.</td>
<td>Twelfth Inter-Sessional Meeting of the Conference.</td>
<td>April 2001</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Re-submit recommendations concerning the E/d Form through the Community Council.</td>
<td>Twelfth Inter-Sessional Meeting of the Conference.</td>
<td>July 2001</td>
<td></td>
</tr>
<tr>
<td>Common lines for CARICOM nationals.</td>
<td>Establishment of common lines for CARICOM nationals with no distinction between host country and other CARICOM nationals for entry at regional airports.</td>
<td>Twelfth Inter-Sessional Meeting of the Conference.</td>
<td>July 2001</td>
<td></td>
</tr>
<tr>
<td>ISSUE</td>
<td>REQUIRED ACTION</td>
<td>ACTION MANDATED BY</td>
<td>DEADLINE</td>
<td>METHOD TO IMPLEMENT ACTION</td>
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</tr>
<tr>
<td>More favourable treatment of non-nationals.</td>
<td>Revisit the policy with respect to entry by non-CARICOM nationals using forms of identification other than passports.</td>
<td>Twelfth Inter-Sessional Meeting of the Conference.</td>
<td>December 2001</td>
<td></td>
</tr>
<tr>
<td>The Term National</td>
<td>Arrive at a common definition for the term National.</td>
<td>Twelfth Inter-Sessional Meeting of the Conference.</td>
<td>March 2001</td>
<td></td>
</tr>
<tr>
<td>Criteria for the Movement of Sport Personnel</td>
<td>Review criteria</td>
<td>Twelfth Inter-Sessional Meeting of the Conference</td>
<td>June 2001</td>
<td></td>
</tr>
</tbody>
</table>
### Annex 2

#### PROGRESS OF THE SME

<table>
<thead>
<tr>
<th>ELEMENTS</th>
<th>STATUS</th>
<th>ACTION REQUIRED</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1 Free Movement of Persons</td>
<td></td>
<td>Compliance by Antigua and Barbuda, Belize, Saint Lucia, Suriname and Trinidad and Tobago.</td>
</tr>
</tbody>
</table>
| 1.1.1 Elimination of Need for Passports | To date, 8 Member States accept forms of identification other than passports from CARICOM nationals, ranging from Travel Permits, Photo ID cards, Birth Certificates and Drivers Licenses as follows:  
Barbados accepts Travel Permits from all member States except The Bahamas, Belize and Suriname.  
Dominica accepts Travel Permits.  
Grenada accepts Travel Permits or Travel Document.  
Guyana accepts National ID or Drivers Licenses accompanied by official Photo ID.  
Jamaica accepts Birth Certificates accompanied by Photo ID, except for Suriname.  
Montserrat accepts any proof of ID.  
St. Vincent and the Grenadines accept travel permits from all member states.  
St. Lucia accepts Birth Certificates.  
Trinidad and Tobago accepts any proof of ID.  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Publicizing of updated Information                                                                 |
| 1.1.2 Facilitation at immigration points | Common lines for citizens/residents and CARICOM nationals used in all Member States, except Trinidad and Tobago and The Bahamas. Trinidad and Tobago has separate lines, which is not seen as a problem. The Bahamas does not stream passengers, and this is not seen as a problem.  
Meeting of Officials has identified the reluctance of Member States to implement the 1999 Decision of Heads of Government to introduce a common E/D card and use the Model CARICOM card, as based on the fact that the current national forms are used by Member States to collect statistical information also.  | The Secretariat to organise Meetings of Officials in February 2001 to consider recommendations from the Second Special Consultation on the CSME.                                                                                                         |
<table>
<thead>
<tr>
<th>ELEMENTS</th>
<th>STATUS</th>
<th>ACTION REQUIRED</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Facilitation of Movement</strong></td>
<td></td>
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</tr>
<tr>
<td>1.1.3. Elimination of need for work permits</td>
<td>In 1995 Member States agreed to the free movement of CARICOM nationals who are University Graduates with effect from January 1996. Nine Member States have completed the legislative process to give effect to this decision. Montserrat and Suriname have not yet enacted legislation, while Trinidad and Tobago must still proclaim their Act.</td>
<td>Montserrat and Suriname to enact legislation. Trinidad and Tobago to complete the process by issuing the proclamation.</td>
</tr>
<tr>
<td></td>
<td>In 1996 Member States further agreed to extend this provision to artistes, sports persons, musicians and media workers. Jamaica, Guyana and Belize made the necessary provision in their legislation while that of St. Vincent and the Grenadines authorises the Competent Minister to make regulations prescribing additional occupations. Barbados is facilitating these groups through an administrative arrangement.</td>
<td>Urgent completion of work at regional and national levels to establish criteria for identifying such persons. The ten Member States which have not yet done so, to enact the necessary legislation for these categories of persons.</td>
</tr>
<tr>
<td></td>
<td>The COTED noted that the provisions in the various laws do not all give full effect to the decision of the Conference.</td>
<td>The Secretariat is mandated by COTED to review the relevant laws in Member States with a view to identifying shortcomings and inconsistencies and advising Member States.</td>
</tr>
<tr>
<td></td>
<td>Protocol II is in effect providing for the movement of persons as service providers or to establish business including management, supervisory and technical staff and their spouses and immediate dependent family members.</td>
<td>The Community Council to provide resources necessary to undertake the technical work to facilitate free movement including harmonization of legislation among Member States.</td>
</tr>
<tr>
<td></td>
<td>No provision is currently made in the Treaty reflecting the general principle and objective of free movement of persons.</td>
<td>Member States to enact the necessary legal provisions and implement the appropriate administrative arrangements.</td>
</tr>
<tr>
<td>ELEMENTS</td>
<td>STATUS</td>
<td>ACTION REQUIRED</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>1.1.4 Mechanisms for equivalency and accreditation (or mutual recognition)</td>
<td>Jamaica and Trinidad and Tobago have appropriate mechanisms in place.</td>
<td>Strengthening of capacity at national level noting that OECS will have one body for the sub-region.</td>
</tr>
<tr>
<td></td>
<td>Guyana, Barbados, Belize and The Bahamas have taken the establishment of their national accreditation bodies to Cabinet.</td>
<td></td>
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<tr>
<td></td>
<td>CXC/Lom funds identified for recruitment and fielding of experts to work on general principles.</td>
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<tr>
<td></td>
<td>ACTI in process of agreeing on equivalency.</td>
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<tr>
<td></td>
<td>Professional Associations have initiated work at the regional level.</td>
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<tr>
<td></td>
<td>A Regional qualification framework incorporating academic and technical/vocational/technological qualifications has been developed to deal with the issues of accreditation articulation equivalency and quality assurance in the Region.</td>
<td></td>
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<tr>
<td></td>
<td>A seven-week consultancy is due to start in March 2001 to assist Member States to put their national bodies in place and to prepare draft model legislation for their guidance.</td>
<td></td>
</tr>
<tr>
<td>1.1.5 Development of Skills register.</td>
<td>Resources being sought from IDB.</td>
<td>Mobilization of resources.</td>
</tr>
<tr>
<td>1.1.6 Harmonization and transferability of Social Security benefits.</td>
<td>Social Security Agreement entered into force 1 April 1997. So far it has been signed by 13 Member States. The Bahamas and Suriname still to sign. 12 Member States have ratified the Agreement.</td>
<td>The Bahamas and Suriname to sign and ratify.</td>
</tr>
<tr>
<td></td>
<td>With the exception of Dominica, Saint Lucia, Suriname and The Bahamas, all member States have completed the process to give legal effect to the CARICOM Agreement on Social Security.</td>
<td>Dominica and Saint Lucia to enact legislation.</td>
</tr>
<tr>
<td></td>
<td>Barbados is already paying benefits under the Agreement.</td>
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<td>Forms to be used to be approved at the next meeting (of the COHSOD).</td>
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<td>Anguilla, the British Virgin Islands and Turks and Caicos were invited to accede to the Agreement in May 1998. The Bahamas has confirmed its interest given the number of CARICOM nationals employed there.</td>
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<td>ELEMENTS</td>
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<tr>
<td>1.2.1. Convertibility of Regional Currencies as stability of exchange rates.</td>
<td>COFAP has agreed that no further action is possible regarding currencies with floating exchange rates.</td>
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<td>1.2.2. Abolition of foreign exchange controls.</td>
<td>Guyana, Jamaica and Trinidad and Tobago have abolished exchange controls. Barbados, the ECCB Members and Belize maintain some exchange control requirements, but given the convertibility of their currencies and availability of foreign exchange, the view is that this does not constitute an impediment to trade.</td>
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<td>1.2.3. Regional Capital Market</td>
<td>An IDB financed project has upgraded existing stock exchanges in the region intended to allow for easy dealing and settlement. Trinidad and Tobago and Jamaica can now engage in simultaneous trading. Surinam’s stock exchange trades twice per week. The Bahamas has its legislation and Board in place. The stock exchange is to be set up. ECCB/OECS is working on securities legislation. Guyana has passed securities legislation but has not taken the process further. In Belize, an IDB team has identified what is necessary for establishment of its stock exchange. Barbados, Jamaica and Trinidad and Tobago provide the nucleus for the regional stock exchange.</td>
<td>Member States to complete establishment of their stock exchanges and consideration given to integrating into the regional mechanism. CARICOM Secretariat to embark on a Region-wide public sensitization and public education programme to publicise the regional stock exchange and focus attention on (importance of) developing the regional capital market.</td>
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<td>Fiscal</td>
<td>1.2.4. Harmonization of Internal Tax Regimes. Work is ongoing towards harmonization of Corporate Tax structures. Draft Articles have been sent to Member States, relating to nine (9) elements in the Corporate tax structure. A response has been received from Saint Lucia indicating no serious objection to the proposals.</td>
<td>Member States were requested to submit comments on the legal draft Articles by 29 December 2000.</td>
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<td>1.2.5.  Intraregional Double Taxation Agreement</td>
<td>Agreement ratified by 11 Member States. National legislation in 5 Member States – Barbados, Belize, Guyana, Jamaica, Trinidad and Tobago.</td>
<td>Montserrat and Suriname to sign and ratify. National Legislation to be amended/introduced as appropriate to give effect to the agreement in 6 Member States – Antigua &amp; Barbuda, Dominica, Grenada, St. Kitts &amp; Nevis, St. Lucia, St. Vincent &amp; the Grenadines. Meetings with Member States to activate or complete the process of giving effect to the Agreement, proposed for 2001. Meetings also proposed for 2001 with Montserrat and Suriname on the process of acceding to the Agreement.</td>
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<td>1.2.6. Harmonization of incentives to industry, agriculture and services (including tourism) in an enabling investment climate.</td>
<td>COFAP still to agree on measures necessary for the Creation of a Harmonized Investment Environment in CARICOM. Informal meeting of Ministers of Finance in February 1999 suggested some guidelines for further work. Findings of Study on incentives for agriculture and recommendations to be considered by next Meeting of COTED.</td>
<td>Member States to advise on how they wish to proceed. Secretariat to follow-up on proposals from the IDB and the Foreign Investment Advisory Service of the World Bank/FC. Agreement by COFAP. Member States were to submit comments to the Secretariat by 30 June 1999.</td>
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<td>1.2.7. Economic Policy Consultation/Coordination Convergence</td>
<td>Informal Meeting of Ministers of Finance in February 1999 recommended: (1) that the convergence criteria should be incorporated into the macro-economic framework of Member States so that means to facilitate convergence of policies would be addressed as part of the national strategy. (2) the creation of a Committee of Finance Officials as counterparts to the Committee CARICOM Central Bank Governors to be responsible for the continuous review of developments and making appropriate recommendations.</td>
<td>Secretariat to mobilise resources including from Member States to support the current process of strengthening the research and intelligence capability to give the necessary support.</td>
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<td>2. External Economic Relations</td>
<td>Barbados, Belize, Grenada, Guyana, Jamaica, St. Lucia, St. Vincent and the Grenadines and Trinidad and Tobago have completed implementation of Phase IV of the reduction of the CET. Antigua and Barbuda examining alternative revenue measures before implementing Phase IV. At the Tenth Meeting of the COTED in January 2001 Dominica reported that it expected to have Phase IV implemented soon. St. Kitts and Nevis implemented Phase III with effect from 1 January 2001. Fiscal constraints were delaying the implementation of Phase IV. Suriname to implement Phase IV by July 2001 as reported by Suriname at the Tenth COTED in January 2001. Study on CET for agriculture products completed and presented to the Tenth Meeting of the COTED.</td>
<td>Member States were to complete implementation of Phase IV of the CET reduction by end of 1999.</td>
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<td>3. Requisite Support Mechanisms</td>
<td>The refined draft of the Harmonized Customs Legislation has been circulated to Member States in May under Savingram No. 327/1998. The 19th Meeting of the Conference of Heads of Government urged Member States to implement legislation. Funding for preparation of model legislation recently mobilised from UNDP as part of Single Market Project. Legislation is either in place or being drafted with WIPO's help. Establishment of CARICOM Intellectual Property Working Group to develop CARICOM policy in Intellectual Property to, inter alia, meet Protocol III Intellectual Property obligations. Model copyright legislation has been prepared under the CARIMIP project and has been utilised by several Member States. Funding for preparation of model legislation recently mobilised from UNDP as part of Single Market project. Protocol IX – Rules of Competition – will provide the framework.</td>
<td>Implementation by Member States taking into consideration the importance of a harmonised system across the region for enhancing the effectiveness of the CSME. Review required in context of possible need for updating legislation in Member States, many of which had been based on the same draft model. Enabling legislation is urgent particularly in context of Protocol II obligations.</td>
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<td>3.2. Organisation at level of Secretariat.</td>
<td>The Secretariat has been reorganised to reflect the importance and multi-sectoral nature of this issue. A Deputy Programme Manager, Single Market, has been recruited to monitor and assist in facilitating implementation of the CSME.</td>
<td>Mobilization of resources to support the process.</td>
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<td>3.3. Organisation at National Level (including Programme for consultations)</td>
<td>Most Member States have designated a Minister with direct responsibility for CARICOM Affairs. Systems for inter-ministerial and inter-sectoral and national consultations are inadequate. Some Member States have put systems in place in terms of COHSOD. UNDP resources mobilised to give support to the process in Member States.</td>
<td>Member States to establish necessary systems to facilitate and encourage consultations and awareness.</td>
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Section II

LABOUR LAWS IMPLEMENTED OR BEING IMPLEMENTED IN THE CARIBBEAN COMMUNITY

Wade Mark

Executive Summary

The study on “Best Practices on Labour Reforms in Labour Markets ensuring compliance with fundamental principles and rights at work” analysed the RANGE of labour legislation introduced and reviewed by the Caribbean Community (CARICOM) over the past few years designed to minimise the negative and harmful effects of globalisation and trade liberalisation on the workers. The working paper also examined labour laws passed at the level of member states as well as the impact of judicial decisions on the principles and practices of good industrial relations.

In an effort to establish accurate data and to incorporate the realities of the region, missions were committed to many Caribbean countries and were the recipients of various comments from many government officials throughout the region.

The major findings of the Working Paper are:
- With the exception of Guyana and Belize, not many CARICOM member states have implemented these model laws. While some CARICOM members have formulated labour legislation in line with the model labour laws, others have failed to take steps to modernize and upgrade their labour laws in tandem with those of CARICOM.
- At the member state level there are many pieces of labour legislation with statutory provisions designed to safeguard and protect workers.
- There is absence of enforceability. Labour laws seem to be observed more in the branch than in the practice. Lack of enforceability has been attributed to the growing global market pressures, paucity of labour personnel and high and growing levels of unemployment, especially among women and the youth.
- Additionally, Ministries of Labour and Labour Departments are still functioning in an era of protectionism although their governments have openly embraced the forces of globalisation, privatisation, liberalisation and deregulation.

It is clear from the findings that labour legislation needs to be reviewed and some rethinking is necessary, not only in the interest of protecting workers interest and rights, but in ensuring the region’s continued competitiveness and long term growth in the context of a rapidly changing global market. Many of the statutory provisions are archaic and labour reform is absolutely essential to genuinely advance the region’s workers in an increasingly hostile international environment.

Fundamental labour market reforms are needed in the Caribbean community to overcome the manifest rigidities in these economies. Labour Ministries/Department must be strengthened, modernised and streamlined.

These institutions must now become more autonomous and flexible and in this process...
relinquish some of their traditional functions and take on new responsibilities. These institutions should become active promoters of genuine social dialogue and fundamental labour reforms.

And there is also need for a greater role for workers and their organisations in monitoring and policing of labour legislation in the Caribbean community.

Introduction

The Caribbean Community has been involved in the world economy as providers of basic raw materials and purchasers of finished manufactured products. It has therefore always played a reactionary role in the scheme of development and not a pro-active one in determining its own distinctive agenda. Cheap and unskilled labour was needed to facilitate external demand for raw materials which fuelled real development in the North, while at the same time stifling genuine development in the Caribbean Region.

Labour laws must be anchored in a global framework. The revision, review or even adjustment of labour laws, must be viewed in the context of changing global market conditions and the critical need to ensure a minimum and basic level of worker protection in an environment of increasingly fierce competition.

In order to adjust to the rush of economic globalisation and trade liberalization, labour laws are not only being harmonized on a regional basis, but are also being adjusted to ensure social balance and equity in the interiors of the region’s workers. Economic globalisation has impacted quite negatively upon labour and social relations in the region. This has been manifested in employment, low wages and limited social protection systems. This working paper provides a timely and comprehensive overview of labour laws in the Caribbean Community. It operates on the basis of agreed term of reference and identifies labour laws in Member States.

The pace of globalisation, trade liberalization and the consequent emerging economic conditions in the Caribbean Community have led to the harmonization of labour legislation within a framework of economic integration and the ultimate development of model labour laws. These laws, rooted in fundamental ILO values, conventions and standards, are aimed at protecting and safeguarding workers’ rights in the context of economic integration and the fiercely competitive global market place.

The Working Paper identifies the model laws in the framework of the Community’s “Declaration of Labour and Industrial Relations Principles” together with well established principles and practices of the ILO which are manifested in the hundreds of conventions and recommendation.

CARICOM has prepared model legislation on:
- Equal pay.
- Equal opportunity and treatment of women.
- Sexual harassment.
- Termination of employment.
- Registration and recognition of Trade Unions and employers organizations.
- Occupational safety and health.
- Working environment.

These model CARICOM laws are analysed in great detail in the Working Paper. In addition, the Working Paper examines the various labour laws in individual member states such as:
- Contracts of employment.
- Freedom of association; rights to organize and compulsory recognition.
- Collective agreements and good faith bargaining.
- Principles and practices of good industrial relations practices.
- Protection against arbitrary dismissal.
- Retrenchment and severance benefits.
- Protection of workers’ wages from unauthorized deductions, maternity protection, holidays with pay, minimum wages, and settlement of trade disputes.

The Working Paper also looks at the role of well-established Industrial Courts and Tribunals in their decisions, and the impact of those decisions on the principles and practices of good industrial relations.

In addition, the issue of enforceability is addressed. Labour Laws are not properly enforced in the Caribbean Community. The study attributes a host of factors for the poor enforcement rate. Annex 1 outlines labour legislation in the region.
A. Steps taken by the Caribbean Community as a whole

1. Declaration of Labour and Industrial Relations Principles

The Caribbean Community has approved a Declaration of Labour and Industrial Relations Principles ("the Declaration"). The Declaration outlines general labour and industrial relations policies that are recommended for implementation throughout the region. The Declaration formally recognises the fundamental ILO principles on:
- Equality of Opportunity and Treatment.

In addition, it inter alia advocates a minimum age for employment, the promotion of stable relations, the right to work, the right to rest and leisure, implementation of fair procedures before termination, occupational safety and health measures, sound security and tripartism.

2. Caribbean Community model legislation

The Caribbean Community has also prepared draft model legislation that covers issues such as:
- Equal pay.
- Equal opportunity and treatment of women.
- Sexual harassment.
- Termination of employment.
- Registration and recognition of Trade Unions and employers’ organizations.
- Occupational safety and health and the working environment.
- The law on non-discrimination and equality of opportunity; and treatment in employment and occupation.

a) Equal pay

The main purpose of the model legislation on equal pay is to remove or prevent discrimination (based on sex) in the rates of remuneration for males and females in employment. An employer who contravenes the Act, commits an offence and is liable to a fine on conviction. Prosecution for an offence is not to be instituted until the mediation procedure has been followed, or, until the point at which restrictions no longer apply.

A court may order an employer to pay arrears of salary where that employer is convicted of an offence of failure to compensate equal pay for equal work, or, where the employer is acquitted by virtue of a special defense. An employee may enforce an order for payment in the same manner as a judgement in favour of that employee. It will not be possible to contract out of the Act. The Draft Act provides that such a contract is null and void. An employee's acceptance of remuneration, in contravention of the Act, is not a defense in any action to recover remuneration at a rate provided in the Act nor is it a bar to proceedings under the Act, or a defense to prosecution. An employer may not dismiss or otherwise discriminate against an employee who:
- Makes a complaint, gives evidence or otherwise assists in the prosecution of a complaint.
- Whose remuneration in respect of any period before the enactment of equal pay legislation, is likely to be regulated by such legislation.

A complaint about violation is first made to the Minister who directs a designated officer to investigate and to attempt to effect a settlement between the persons affected by the breach of the Act. The officer is required to report to the Minister within 60 days. If the officer fails to effect a settlement, the Minister is empowered to refer it to a referee for review. The referee reviews the matter and reports to the Minister, making recommendations on an appropriate course of action to be taken. The Minister is empowered to make an order to give effect to the referee's recommendation and in that order may require the employer to reward equal pay to the employees affected. Prosecution of breaches will not commence unless:
- The Minister fails to direct an investigation within 15 days after the complaint is made.
- A designated officer fails to advise a settlement between the persons affected or the Minister fails to refer the matter to a referee within 30 days after receiving the officer's report.
The Minister fails to make an order within 30 days after receiving the referee's report.
- Where an order is made, the employer fails to comply within 30 days after the date of the order.

b) The employment of women (equal opportunity and treatment) act

The main objectives of the intended legislation are to promote equality of opportunity and treatment in employment for women and to provide remedies in respect of discrimination on the ground of sex, marital status and pregnancy.

The Act seeks to implement certain provisions of the Convention on the Elimination of All Forms of Discrimination Against Women and the promotion of the recognition and acceptance of the equality of men and women. It seeks to establish an Equal Opportunity Tribunal (“the Tribunal”). The Act deals with discrimination on the ground of sex, marital status or pregnancy. It includes situations where less favourable treatment is given to a person than is given or would be given to another person in the same or substantially similar circumstances. It makes it unlawful for an employer to discriminate against a prospective employee on the ground of sex, marital status and pregnancy, in the arrangements for selecting persons for employment or in the terms or conditions on which employment is offered. It also deals with discrimination in the workplace in relation to employees, including denial of access to promotion, the dismissal of the employee or subjection to other detriment. The Minister is empowered to refer any matter to the Commissioner in relation to a law or proposed law that conflicts with the Act, or which may give rise to such conflict. The Minister may also refer a practice, alleged practice or proposed practice of any person or class of persons that pose similar problems. The Commissioner will undertake periodic reviews of laws, governmental practices and policies in order to identify circumstances where discrimination occurs and to report findings to the Minister. Complaints alleging contravention of a provision of the Act will be in writing and may be lodged with the Commissioner by or on behalf of the aggrieved person, or by a Trade Union of which that person is a member. A complaint may also be made in relation to the refusal or neglect of a person to obey or comply with an order of the Tribunal. The Commissioner will investigate each complaint lodged. The Commissioner may apply to the Tribunal for an interim order. This application may be made at any time after a complaint is lodged and before the Commissioner dismisses it, or it is resolved by conciliation or referred to the Tribunal. The Commissioner is empowered to obtain information or request documents relevant to the inquiry. The Commissioner must give written notice to the person required to give information or produce documents. The Commissioner may direct persons to attend a conference for the purpose of inquiring into a complaint and endeavour to settle the matter by conciliation. The Commissioner is empowered to dismiss a complaint that he considers frivolous, vexatious, misconceived or without substance. If he decides to dismiss a complaint the Commissioner must give reasons and he must advise the complainant that the matter may be referred to the Tribunal. A complainant who is notified that the complaint is dismissed may require the Commissioner to refer such complaint to the Tribunal. This may be required if the Commissioner considers that the matter cannot be resolved by conciliation, or, where the efforts to resolve it by conciliation have failed. In the Commissioner's opinion, the nature of the complaint warrants reference to the Tribunal.

The Tribunal will hold an inquiry into each complaint referred and the Minister is empowered to refer any matter to the Tribunal for inquiry as a complaint.

The Tribunal will not be bound by rules of evidence and will be required to act according to equity, good conscience and the merits of the case, without regard to technicalities and legal form, and is empowered to give directions aimed at reducing costs and achieving a prompt hearing.

The Tribunal may dismiss a complaint that it considers frivolous, vexatious, misconceived, lacking in substance or where it considers that for any other reason the complaint should not be entertained. Where it finds the complaint substantiated, it may order
the respondent to pay damages to the complainant, order the cessation of the offending conduct; order the respondent to do what is necessary to redress the complainant's loss or damage; declare void any agreement made in contravention of the Act; or the Tribunal may decline to take any further action in the matter. Where the Tribunal orders any amount to be paid, it may be registered in a court as a judgment debt. It is an offence to refuse, or fail to obey or comply with an order of the Tribunal.

A party aggrieved by a decision or order of the Tribunal may appeal to the Court of Appeal on a point of law. It will be an offence to induce a person to do an act that constitutes unlawful discrimination under the Act.

An employer will be liable for anything during the course of a person's employment, whether or not it was done with the employer's knowledge or approval. It will be a defense, however, for the employer to prove that he took all reasonable steps to prevent the unlawful act.

c) Sexual harassment

There is also draft model legislation aimed at providing protection for persons who suffer discrimination by acts of sexual harassment.

The draft legislation deals inter alia with unlawful sexual harassment in employment. The legislation makes it unlawful for an employee to sexually harass a fellow employee. The legislation will prohibit unwelcome sexual advances or unwelcome requests for sexual favours, as well as, other unwelcome conduct of a sexual nature, where a person is led to believe that any rejection of that conduct is likely to cause that person to suffer disadvantage in connection with employment. It is intended that a Tribunal will hear complaints under the Act. It may be either a permanent or ad hoc Tribunal. Complaints are to be lodged with the Tribunal or the Permanent Secretary in the Ministry of Labour.

Inquiries into a complaint may be made by an authorised officer who is obliged to endeavour to settle matters by conciliation, and may obtain information from such persons as the officer thinks fit. He may decide not to carry out an investigation or to discontinue an investigation in certain circumstances. A complainant may, on being notified of the decision to discontinue or not to carry out an investigation, make a written request to the Tribunal or to the Minister for an inquiry to be conducted.

An authorised officer may obtain information and documents by notice in writing to a person who the authorised officer believes is capable of giving information. The authorised officer may take possession of, make copies of, or retain any documents exhibited to him. An authorised officer may refer matters to the Tribunal where the officer thinks such matters cannot be settled by conciliation, or, has not succeeded in so settling them or is of the opinion that the matter is such that it warrants inquiry by the Tribunal. An authorised officer will be required to submit a written report to the Tribunal of any investigations carried out by the officer and of any resolution of matters by conciliation.

The Tribunal may also try to resolve a complaint by such means as it considers reasonable. The Tribunal is obliged to attempt to settle matters amicably and may allow adjourments to parties to negotiate amicable arrangements.

The Tribunal may take evidence on oath or affirmation and receive in evidence proceedings in a court or before a Tribunal or adopt any findings, decisions or judgments in such proceedings and may also receive in evidence an authorised officer's report.

The Tribunal will be empowered to direct, by written notice, the attendance of persons at an inquiry and require the attendance of persons at an inquiry and require the production of documents.

The Tribunal will be required to give a party at an inquiry reasonable opportunity to call, examine and cross-examine witnesses and to make submissions to it. A party to an inquiry is entitled to have legal representation.

The Tribunal may dismiss the complaint or find in favour of the complainant. In the latter case, certain stipulations may be imposed. These may include a requirement that the respondent should not repeat or should cease the offending conduct, and pay damages by way of compensation to the complainant. Where payment of compensation is ordered, the sum payable may be recovered summarily as a civil debt.
There is a right of appeal against the Tribunal’s decision to either the Court of Appeal or to a Judge in Chambers.

The draft legislation provides that an act of sexual harassment is not a criminal offence.

There is provision in the model legislation for a person not to victimise a person who has made or proposes to make a complaint or bring proceedings against any person.

d) Termination of employment

The objectives of the Draft Act on Termination of employment, is to give effect to the provisions of the ILO’s Convention No 158 on Termination of Employment - to afford workers the right to continuity of employment; to protect employees against unfair dismissal; and to establish procedures for employees and employers to follow, to permit termination of employment relationships in a fair and equitable manner. The Draft Act sets out minimum standards and does not exclude higher standards fixed by agreement, collective or other form of negotiation, or arbitration award. It outlaws any provision of an agreement that excludes or in any way conflicts with any provision of the Act to the detriment of an employee. In the Act, “employee” means a person who offers his or her services under a contract of employment, a managerial employee, a dependent contractor and, where appropriate, a former employee. A contract of employment may be in one of the following forms:

a) A contract without reference to limit of time.

b) A contract for a specified period of time.

c) A contract for a specific task.

d) A contract for a probationary period of not more than 3 months.

A contract described in a) above may be terminated by either party, subject to the provisions of the Act concerning unfair dismissal and notice of termination. A contract described in b) above will terminate automatically on its expiration and no notice is required for termination. Termination at any other time will be subject to the provisions of the Act concerning unfair dismissal. A contract described in c) above will terminate on completion of the task and no notice of termination by either party is necessary.

Subject to certain exceptions, every employer is required to prepare and deliver to an employee an employment contract in writing, containing a correct statement of the agreed terms and conditions of employment within 14 days from the commencement of employment. An employment contract may be amended as and when necessary. Any person 16 years or older has capacity to enter into an employment contract, provided that the person is under 16 years he/she will need the written consent of his/her parent or guardian or other appropriate person before entering into an employment contract.

It will be presumed that an employee’s contract of employment will be continuous unless the contrary is shown. Continuity of employment will not be interrupted by certain specific events. Acceptance of severance benefits will, however, terminate the continuous period of employment.

An employer shall not terminate the employment of an employee who is employed for an unspecified period of time, or an employee who has not yet completed the specified period of his contract, where the employment is for a fixed term, unless there is a valid reason for such termination connected with the capacity or conduct of the employee or based on the operational requirements of the enterprise and the respective provisions of the Act observed and the appropriate notices given. The employee may, however, terminate the employment relationship for any reason, provided he gives the required notice necessary by the Act.

The following reasons will not be acceptable as valid reasons for dismissal or for the imposition of disciplinary action:

- An employee’s race, sex, religion, colour, ethnic origin, national extraction, indigenous population, social origin, political opinion, disability, family responsibilities or marital status.

- An employee’s age, subject to national law, or, collective bargaining provisions regarding retirement.

- A female employee’s pregnancy or a reason connected with her pregnancy.

- An employee’s exercise of certain specified rights concerning union membership and participation in Trade Union activities.
- An employee’s temporary absence from work because of sickness or injury unless it occurs frequently and exceeds allocated leave entitlement.
- An employee being diagnosed with HIV virus, unless the employee is engaged in health care work.
- An employee’s absence from work due to compulsory military service or other civic obligation in accordance with national law.
- An employee’s exercise or proposed exercise of the right to remove himself or herself from a work situation, which he or she reasonably believes presents an imminent or serious danger to life or health.
- An employee’s participation, or proposed participation in industrial action which takes place, including strikes in conformity with the provisions of national labour relations law.
- The filing of a complaint or the participation in proceedings against an employer involving alleged violations of laws or regulations.

A dismissal is unfair if it is based on any of the above grounds or constitutes a constructive dismissal. An employee is entitled to terminate his employment without notice, or with less notice where the employer’s conduct has made it unreasonable to expect him to continue the employment relationship. Where the employer terminates the employment contract in such circumstances, the worker will be deemed to have been unfairly dismissed.

The Draft Act also makes provision for summary dismissal in a variety of circumstances. The Act also makes provision for termination on account of redundancy and contains a formula for severance pay.

The Draft Act provides for certain remedies to be awarded by the court for unfair dismissal and other related matters.

e) Registration, status and recognition of Trade Unions and employers’ organisations

Draft model legislation also exists in the Caribbean Community concerning the registration, status and recognition of Trade Unions and employers’ organisations. The objectives of the legislation are:
- To give effect to the provisions of National Constitutions on Freedom of Association and ILO Conventions No 87 and No 98 on Freedom of Association and the Right to Organize and to Collective Bargaining.
- To promote and protect the recognition of Trade Unions.
- To encourage orderly and effective collective bargaining.

The Draft Act declares the following rights of employees:
- The right to take part in the formation of any Trade Union or federation of Trade Unions.
- The right to be or not to be a member of any Trade Union or federation of Trade Unions.
- The right to take part in lawful Trade Union activities.
- The right to hold office in any Trade Union or federation.
- The right to take part in the election of shop stewards or safety representatives.
- The right to be elected a shop steward or safety representative, or to be a candidate for such election.
- The right to act in the capacity of a shop steward or safety representative.
- The right to exercise any right interest conferred or recognised by the Act, or any national law or to assist any employee, shop steward, safety representative or Trade Union in the exercise of such rights.

No employer, employers’ organization or person acting on behalf of an employer or employers’ organization may, with respect to any employee or person seeking employment:
- Require that he or she shall not join or relinquish membership in a Trade Union.
- Discriminate or take any prejudicial action, including discipline or dismissal against such employee or person by reason of Trade Union membership or because of participation in lawful Trade Union activities.
- Discriminate or take any prejudicial action against such employee or person, including discipline or dismissal, because of the exercise or anticipated exercise of any right conferred by the draft legislation, or under any national law on employment or labour relations.
- Threaten such employee or person that he or she will suffer any disadvantage from exercising any right conferred or recognized
under the Draft Act, or under any national law on employment or labour relations.
- Promise such employee or person any benefit or advantage for not exercising any right conferred or recognized under the Draft Act, or under any national law on employment or labour relations.
- Restrain or seek to restrain such an employee or person, by a contract of employment or otherwise, from exercising any right conferred or recognized under the draft legislation, or under any national law on employment or labour relations and any contractual term which purports to exert any such restraint shall be void, whether agreed to before or after the enforcing of the legislation.

Provided that an employer always has the right to dismiss an employee for a valid reason.

The Draft Act will prohibit the promotion of an employees’ organization under the domination of an employer or employers’ organization or the support of employees’ organizations by financial or other means with the object of placing such organization under the control of employers or employers’ organizations.

The Draft Act also declares the right of employers to take part in the formation of employers’ organizations or associations; to be a member of such organizations, to participate in their lawful activities; and to hold office in such organizations. The Draft Act makes provision for complaints by workers and employers concerning any infringements of their rights to organize and associate.

The Draft Act also makes provision for registration of Trade Unions and employers’ organizations.

The Draft Act envisages the appointment of a tripartite body to be responsible for the recognition and certification of Trade Unions, and enumerates relevant applicable criteria for such recognition and certification, based principally on a majority of membership in good standing and appropriateness of bargaining units.

Where a Trade Union is certified as a recognized bargaining agent, an employer must recognize the union. The union and employer must engage in collective bargaining. There is provision for revocation of bargaining rights in certain circumstances.

A collective agreement must be in writing, contain effective procedures for the avoidance and settlement of rights and interest disputes, and procedures for the settlement of differences arising out of the interpretation, application and administration of the agreement. The Draft Act makes a collective agreement binding, unless stated otherwise, on the Trade Union and employer who are parties to it and every employee who is a member of the bargaining unit for which the Trade Union has been certified. The Draft Act also contains provisions for successorship in case the employer’s business is sold, and for the collective agreement to be binding on such successors.

f) Equality of opportunity and treatment in employment and occupation

The objectives of the draft legislation are:
- To give effect to the provisions of national constitutions, the ILO Conventions Nº 111 concerning Discrimination in Employment and Occupation and Nº100 concerning Equal Remuneration and certain provisions in the UN Convention on the Elimination of All Forms of Discrimination Against Women.
- To eliminate, as far as possible, discrimination in employment and occupation against persons on the grounds of race, sex, religion, colour, political opinion, disability, family responsibilities, pregnancy or marital status.
- To promote recognition and acceptance of the principles of equal opportunity and treatment of the above grounds in employment, occupation and other related activities, including education, vocational training, employment services, provision of goods and services, partnerships and professional trade organizations.

The Draft Act will protect employees against the various forms of discrimination stated in the above objectives. The Draft Act will include all workers and employees and employers in the private sector who are engaged in the employment relationship. It will make it unlawful for any employer or employer’s representative, in relation to recruitment, selection or employment of any
other person for purposes of training, apprenticeship or employment, to discriminate against that person on the grounds stated in the Act’s objectives:
- In the advertisement of the job.
- In the arrangements made for the purpose of determining who should be offered employment.
- In determining who should be offered employment.
- In the terms or conditions on which employment is offered.
- The creation, classification or abolition of jobs.
- Conditions of work or occupational safety and health measures.
- The provision of facilities related to or connected with employment.
- Denying access, or limiting access to opportunities for advancement, promotion, transfer or training, or to any other benefits, facilities or services associated with employment.
- By retrenching or dismissing the employee.
- By subjecting the employee to any other disadvantage.

The Draft Act, however, recognizes that in certain instances there may be genuine occupational qualifications for a particular job.

The Draft Act also outlaws sexual harassment of employees by employees, managerial employees or co-workers. Sexual harassment is defined as:

“unwanted conduct of a sexual nature in the workplace or in connection with the performance of work which is threatened or imposed as a condition of employment on the employee or which creates a hostile working environment for the employee.”


g) Occupational safety and health and the working environment

The Caribbean Community has also drafted comprehensive model legislation on Occupational Safety and Health and the Working Environment. The Draft Act applies to all forms of economic activity and contains detailed provisions for regulating safety and health in factories and other industrial establishments.

Under Health, Safety and Welfare of Workers, Guyana has the Occupational Safety and Health Act, 1997, Act No 32 of 1997, while Saint Lucia has the Employees (Occupational Health and Safety) Act 1985, which is in the process of expanding to be incorporated in its New Labour Code.

h) Note

It will be noticed that all of the draft model legislation of the Caribbean Community has been patterned on similar provisions that exist in Metropolitan countries. It is intended that the Caribbean worker will enjoy the same protection as his counterparts in developed countries.

B. Legislation of individual member states of the Caribbean Community

Individual member states of the Caribbean Community also have their own existing individual labour legislation. There is little uniformity in the several legislative provisions but it is possible to look at some of the main legislative provisions of individual Caribbean Community countries under the following headings:

1. Contracts of employment

Through out the region, the contract of employment provides the basis for labour and employment law. Contracts of employment may be oral or written, or partly oral or partly written, and “expressed or implied”. There is a
clear legal distinction between a contract of service and a contract for services, i.e. an independent contractor relationship. A person must work under a contract of service to be protected by labour and employment laws.

2. Freedom of association, right to organise and compulsory recognition of Trade Unions

Trade Union recognition is one of the principal safeguards of workers’ terms and conditions of employment. Caribbean countries have ratified ILO Conventions Nº 87 and Nº 98 and the spirit and intention of these conventions are applied throughout the region.

Nearly all the countries of the region have provisions for the compulsory registration of Trade Unions. Antigua, Bahamas, Dominica, Grenada, Jamaica and Trinidad and Tobago have specific legal provisions for recognition of Trade Unions as bargaining agents for their members. Except for Trinidad and Tobago, which has a Registration, Recognition and Certification Board to determine claims for recognition, the Minister responsible for Labour determines claims for recognition of Trade Unions as bargaining agents. The membership qualification is generally 50% of the workers in the bargaining unit, except in Jamaica where it is 40% of the workers. Once the requisite membership qualification is satisfied, recognition is compulsory, except in Dominica, where no penalty exists, failure of an employer to recognize a Trade Union after due certification is an offence. Dominica is the only CARICOM country that has provision for termination of recognition.

In some jurisdictions, provisions for the protection of Trade Union members and Trade Union officers from victimization or discrimination (because of Trade Union membership or activity) exist. In Antigua, the right of persons to join, form and assist Trade Unions is specifically declared. Discrimination against workers for Trade Union membership or activity is prohibited. Incorporating a term or condition of employment to encourage or discourage membership in a Trade Union is also prohibited.

The Bahamas Industrial Relations Act prohibits an employer from dismissing an employee, or adversely affecting his employment by reason of his membership of a Trade Union or for carrying out his duties as an officer of a Trade Union. The law also protects workers who apply for or take time off from work for carrying out urgent and necessary duties for a Trade Union in connection with a trade dispute.

Employers are also prevented from dismissing or threatening to dismiss officers or delegates of a Trade Union or workers who propose to appear as witnesses in trade disputes.

In Jamaica, the Labour Relations and Industrial Disputes Act specifically declares the right of every worker “to be a member of such Trade Union as he may choose”, and “to take part at any appropriate time in the activities of any Trade Union of which he is a member”. Discrimination against workers because of Trade Union membership or activity is an offence.

Trinidad and Tobago has ratified the core ILO Conventions relating to Freedom of Association and Right of Workers to organize. Section 71 of the Industrial Relations Act (“the IRA”) reflects the principle of Freedom of Association recognized by the Constitution of Trinidad and Tobago and provided for in ILO Conventions Nº 87 and Nº 98. It recognizes the right of every worker to belong, or not to belong, to a Trade Union and, where he is a member of a Trade Union, his/her right to hold office and to participate in the activities of the Trade Union. Section 71 states:

“Every worker as between himself, his employer and co-workers shall have the following rights, that is to say:
- The right to be a member of any Trade Union or any number of Trade Unions of his choice.
- The right not to be a member of any Trade Union or other organization of workers, or to refuse to be a member of any particular Trade Union or other organization of workers.
- Where he is a member of a Trade Union, the right, subject to this Act, to take part in the activities of the Trade Union (including any activities as, or with a view to becoming an official of the Trade Union) and (if appointed or elected) to hold office as such an official”.

The IRA further protects workers who become Trade Union officials by making it a
criminal offence for an employer to victimize a worker because of his Trade Union activities. Section 42 of the IRA provides:

“An employer shall not dismiss a worker, or adversely affect his employment, or alter his position to his prejudice, by reason only of the circumstances that the worker:
- Is an officer, delegate or member of a Trade Union.
- Has absented himself from work without leave after he has made an application for leave for the purpose of carrying out his duties as an officer or delegate of a Trade Union and the leave has been unreasonably refused or withheld.”

The section states further:

“An employer shall not:
- Make the employment of a worker subject to the condition that he/she shall not join a union or shall relinquish Trade Union membership.
- Dismiss or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside of working hours”.

A breach of the above provisions is an offence under the Act.

3. Good faith bargaining and sanctity of collective agreements

An important means of ensuring fair treatment of workers is through the existence of collective agreements containing the terms and conditions of employment of workers, since the agreement constitutes evidence of the agreed terms and conditions of employment. In Trinidad and Tobago, the Industrial Relations Act imposes an obligation on the recognised majority union and the employer to negotiate in good faith for the purpose of collective bargaining. Where a Trade Union obtains certification of recognition for workers in a bargaining unit, the employer is required to recognize that Trade Union as the recognised majority union. The recognised majority union and the employer must negotiate in good faith with each other for the purposes of collective bargaining. Collective bargaining includes the negotiation of a collective agreement stipulating the terms and conditions of employment of the workers in the bargaining unit and matters instituted under the grievance procedure, which every collective agreement is required to contain. It is an offence under the Act for an employer not to recognize a certified majority union. A recognised majority Trade Union and an employer may enter into a collective agreement for a minimum period of three years or for any period up to five years. The terms and conditions of a collective agreement negotiated between a recognized majority union and an employer becomes binding on the parties upon its registration in the Industrial Court. Registration of the agreement constitutes actual notice of all its terms and conditions, and upon registration, its terms and conditions are deemed to be terms and conditions of the individual contracts of employment of the workers in the bargaining unit in respect of which the agreement was negotiated. The Industrial Relations Act, Chapter 88.01 deems the recognized majority union, the employer concerned and successors or assignees of the employer or Trade Union concerned to be the parties to a registered collective agreement. A registered agreement is directly enforceable in the Industrial Court only and not in the ordinary courts.

In Antigua, a collective agreement is enforceable as a legally enforceable contract in the normal courts, provided that the parties intended the agreement to be so enforceable. There must be a clear statement in the agreement that the parties intended the agreement to be enforceable. In the absence of such a clear intention, it will be presumed that the parties did not intend the agreement to be enforceable.

In Bahamas and Dominica, collective agreements are enforceable in the ordinary courts. In Jamaica, collective agreements are binding and enforceable in a Court of Law only if they have come about as a result of an award of the Industrial Disputes Tribunal.

In Guyana, a collective agreement is enforceable in the ordinary courts, if it does not contain a provision that it, or any part of the agreement, is intended by the parties not to be legally enforceable.

In Belize, Barbados, St. Lucia, Montserrat and St. Kitts, it is specifically provided in Trade Unions legislation that Trade Union contracts are not enforceable. In these countries, therefore, collective agreements are binding in honour only.
4. Recognition of the principles and practices of good industrial relations

In all CARICOM countries, there is general acceptance of the core ILO Conventions, which is the best source of the principles and practices of good industrial relations. However, Trinidad and Tobago has gone further to, in particular, require its industrial Court to give preference to the principles and practices of good industrial relations, in the determination of disputes and other matters before it and not necessarily decide them in accordance with the common law. The IRA also requires the Industrial Court to take into account equity, good conscience and the interest of the community as a whole in making its orders and awards. In Jamaica, there is a Labour Relations Code, which sets out guidelines aimed at promoting good labour relations. The provisions of the code are not binding. However, the Industrial Disputes Tribunal is required to take the provisions of the code into consideration when making awards.

5. Protection against arbitrary dismissal

In Antigua, if a worker is dismissed unfairly, he may apply to the Industrial Court for redress; which could include either reinstatement or damages.

In the Trinidad and Tobago Industrial Relations Act, a worker is protected from being dismissed harshly and oppressively or contrary to the principles of good industrial relations practice. If a worker is dismissed contrary to the provisions of that Act, the Industrial Court may order that he/she be reinstated, re-employed, or that the employer pay him/her damages or compensation for his/her dismissal.

Legislation also exists in St. Vincent, Montserrat, St. Kitts and Dominica for the protection of workers against wrongful, unfair or summary dismissal. In Belize and St. Lucia legislative provisions exist to protect workers against summary and wrongful dismissal. In Belize, there is protection for unfair dismissal resulting from Trade Union membership. There are also unfair dismissal provisions in Jamaica and Bahamas. While Barbados has not enacted unfair dismissal legislation, a worker who is wrongfully dismissed can seek redress through the law courts and be awarded compensation in accordance with the Severance Payments Act.

6. Retrenchment and severance benefits

Barbados and Trinidad and Tobago have specific severance legislation. The other CARICOM countries have severance provisions built in to general labour legislation. There is no unified concept of redundancy in the Region. In Jamaica, the Employment (Termination and Redundancy Payments) Act makes provision for employers to retrench workers (surplus).

In the Retrenchment and Severance Benefits Act, 1985 of Trinidad and Tobago (“the R.S.B.A.”), an employer may, by due notice, retrench surplus workers in his organization on the ground of redundancy. If such retrenchment takes place, the employer is required to pay severance benefits to the affected workers. The R.S.B.A. stipulates a minimum scale of severance benefits depending on the past service of the worker, but an employer may pay higher rates of severance voluntarily or if the workers are subject to a registered collective agreement that prescribes higher rates of severance benefits. Similar provisions exist in Barbados.

In some CARICOM countries, such as Belize, severance benefits may be payable on retirement. In St. Lucia, domestic employees are not entitled to severance benefits.

There are also wide differences in the calculation of severance benefits payable.

7. Protection of workers’ wages from unauthorized deductions

In most CARICOM countries, workers’ wages are protected from unauthorized deductions and must be paid in cash and not in kind. This is a carry over from the former English Truck Acts though most of the CARICOM countries, such as Barbados, Dominica, Grenada, Montserrat, St. Kitts and St. Lucia have Protection of Wages Acts. The Bahamas and Trinidad and Tobago still have Truck Acts.
8. **Maternity leave and benefits**

Specific legislation providing for maternity leave exists in the Bahamas, Barbados, Grenada, Jamaica and Trinidad and Tobago. In Dominica, Belize, St. Vincent, Montserrat, St. Lucia, Guyana and Antigua, provision is made for payment of maternity benefits either in National Insurance laws or other social security legislation.

9. **Holidays with pay**

In most CARICOM countries, there is legislation providing for minimum periods of annual vacation with pay.

10. **Minimum wages**

In Trinidad and Tobago, the minimum wage is $7.00 per hour. It is an offence to pay a worker less than the minimum wage. If an employer fails to pay a worker the minimum wage or dismisses a worker, on complaint to the Industrial Court, the Court may order the reinstatement of the worker or that he be paid damages and be reimbursed for the unpaid wages.

In Barbados, there is also a Minimum Wage for Shop Assistants 18 years and over of $4.25 per hour. In all, there are eleven countries of the region with Statutory Provisions for Minimum Wages (See Annex 1).

11. **Health, safety and welfare of workers**

Trinidad and Tobago and Jamaica has draft legislation which, when introduced, will make comprehensive provision for the safety, health and welfare of persons at work. In Barbados, there is also draft comprehensive safety and Health legislation which will replace the current Factories Act.

In fact, some twelve CARICOM member states have in place Occupational Safety and Health (OSHA) legislation which are outdated and archaic.

12. **Industrial injury compensation**

At present in Trinidad and Tobago, there is a Workmen's Compensation Act (“the WCA”), which contains formulae for monetary compensation to workers who are die or are injured in the course of their employment. The WCA also provides for the payment of interim compensation to injured workers pending the assessment of their injury for purposes of quantifying the compensation payable to them. There is a revised Act that will be placed before Parliament shortly.

Provisions are made in the Barbados and Jamaican Social Security legislation for the payment of injury benefits to persons who receive work related injuries.

13. **Equal opportunity**

Trinidad and Tobago recently enacted an Equal Opportunity Act. The Act seeks to prohibit, inter alia. Discrimination in employment, to promote equality of opportunity between persons of different status, to establish an Equal Opportunity Commission and an Equal Opportunity Tribunal.

14. **Industrial relations offences**

The IRA conferred on the Industrial Court the jurisdiction to hear and determine proceedings for industrial relations offences. An industrial relations offence is a creation of the IRA and is a criminal offence. The IRA created the following industrial relations offences:
- Failure by an employer to recognise a Trade Union as the recognised majority Trade Union where that Trade Union has obtained recognition for workers comprised in a bargaining unit in accordance with Part III of the IRA
- Failure of a recognised majority union to treat and enter into negotiations with an employer in good faith for the purposes of collective bargaining.
- Failure of an employer to treat and enter into negotiations with the recognised majority union for the purpose of collective bargaining.
- Taking industrial action which is not in conformity with Part V of the IRA.

An employer who fails to recognize a majority union after the union has been so certified, is guilty of an industrial relations offence and liable to a fine of $4,000.

A recognized majority union or an employer that fails to negotiate in good faith is guilty of an industrial relations offence and liable to a fine of $4,000.

15. Industrial action

Where industrial action is taken otherwise than in conformity with Part V of the IRA:
- An employer who takes such action is guilty of an industrial relations offence and is liable to a fine of $20,000. In addition to such a fine, the employer remains liable for the unpaid wages, salary and other remuneration that a worker may reasonably be expected to obtain, in respect of any period during which the lockout action takes place.
- A Trade Union which takes such action is guilty of an industrial relations offence and is liable to a fine of $10,000 and, in addition to such fine, the Industrial Court may order the cancellation of its certificate of recognition.
- An employer may treat the action of a worker who takes part in such an act as a fundamental breach of contract going to the root of the contract of employment of the worker, subject to the right of a Trade Union to apply to the Industrial Court for an order, exempting such a worker from the consequences of this provision. In Jamaica, any individual action taken in an essential service is unlawful, except for the circumstances specified in Section 9(5) a) and b) of the Labour Relations and Industrial Disputes Act.
- Threat of Industrial Action or Industrial Action taken in certain industries which would cause an interruption in the supply of goods or in the provision of services of such a nature or on such a scale is to be gravely injurious to the National interest and can be prohibited by an “Order” of the Minister responsible for Labour.
- Industrial action taken after the service of the “Order”, or when industrial action had commenced and continued for more than 48 hours after the “Order”, is unlawful.
- The Tribunal can order that industrial action taken in relation to a dispute before the Tribunal should cease, or that industrial action should not take place. Any one disobeying the order of the Tribunal is guilty of an offence and liable on summary conviction to a fine.

C. Methods of enforcement and machinery for settlement of trade disputes by an impartial and independent tribunal

In Antigua and Trinidad and Tobago, there are Industrial Courts for the settlement of all unresolved trade disputes and other matters arising between Trade Unions, workers and employers. The Industrial Court of Trinidad and Tobago is a superior court of record with a status which is equivalent to the High Court of Justice. The Trinidad and Tobago Industrial Court is invested with responsibility to hear and determine and make final orders in both rights and interests disputes. There is a limited right of appeal to the Court of Appeal, mainly on points of law from decisions of the Trinidad and Tobago Industrial Court.

Bahamas and Jamaica have Industrial Tribunals. In the other jurisdictions, enforcement is through the ordinary courts.

D. Judgments of Courts and Tribunals

The Courts and Tribunals responsible for the administration of labour law in the region have made certain important decisions that are worthy of being recorded in this Paper. In Trinidad and Tobago, the Industrial Court has recognized the ILO Conventions as one of the main sources of the principles and practices of good industrial relations. It has applied on several occasions, the provisions of Convention No. 158 of 1982 respecting Termination of Employment and has taken the position that, except in exceptional circumstances, an employer should, before dismissing a worker for a reason related to the conduct or capacity of the worker, have a valid reason for the termination, inform the worker of the correct reason and give the worker an opportunity to be heard before implementing the decision to dismiss. The Trinidad and Tobago Court has also recently recommended to employers and Trade Unions the ILO provisions for “time off” to workers for legitimate union business.
The Court has also upheld the sanctity of registered collective agreements during their currency.

The Court has, over the years, set out various principles of good industrial relations practice, and both employers and Trade Unions are expected to adhere to these practices.

E. Draft Labour Code

The Government of St Lucia has undertaken a major and comprehensive overhaul of its labour laws in an effort not merely to review and revise but to adjust wherever necessary, to the rapidly changing global market conditions.

In consultation with the social partners and the general population, a new Draft Labour Code has been formulated, encompassing some 40 pieces of labour laws aimed at simplification, accessibility and convenience for all those with an interest in labour law and industrial relations.

This Draft Labour Code is consistent with the government’s desire to balance social policy given the changing social and economic conditions in a period of fierce competitiveness. The Draft Labour Code is expected to ultimately reflect the many ILO conventions already ratified by St. Lucia. It is also expected to address such sensitive issues such as termination of employment, right to strike, child labour and HIV/AIDS, at the workplace. It will also take on board the perspective of well-established International Labour Standards.

At the moment, there is some reservation by the employers in respect of certain provisions contained in the Draft Labour Code, but ongoing discussion and consultation would result in an ultimate resolution. The codification, as well as the consolidation of some 40 pieces of labour laws is a step in the right direction.

The participation and involvement of the social partners in the discussion and formulation phases of the proposed Draft Labour Code is also a positive development in the framework of Tripartism.

ILO is providing technical assistance under the invitation of the St. Lucia Government in respect of the formulation of a New Draft Labour Code.

Conclusion

Labour laws in the Caribbean Community need to be constantly reviewed, revised and adjusted not only in the interest of the workers, but in the context of changing interest of the global market conditions. This is necessary to ensure not only the region’s competitiveness, but quite critically, to guarantee its long term growth and sustainability. In this regard, there is an urgent need for the Caribbean Community to rethink labour legislation. Apart from the evident absence of enforceability throughout the region, the real and grave economic difficulties facing the region makes it almost impossible for proper implementation.

The loss of the region’s strategic significance, coupled with recent World Trade Organisation’s ruling, concessional financing and increasing competition in respect to the region’s tourism product, makes it imperative for urgent labour market reforms.

Increasing unemployment levels in the Community tend to make a virtual mockery of labour laws. Indeed, in many cases the biggest offender of labour laws turns out to be the very governments that have sworn to uphold and enforce these laws.

The paucity of labour personnel throughout the Caribbean Community to enforce basis labour laws, such as minimum wages, coupled with the low priority status given to Ministers of Labour and/or Labour Departments in the government’s overall scheme of things, also contribute to the obvious lack of enforcement and the consequent brutal and cruel oppression and exploitation of ordinary workers by a few unscrupulous and dishonest employers.

In light of the very poor rate of enforcement of labour laws in the Caribbean, one must not underestimate the recent legislative amendment to the Minimum Wages Act in Trinidad and Tobago.

As a result of this amendment, workers have now been empowered by legislation to report their disputes directly to the Minister of Labour, Manpower Development and
Industrial Relations via a process of conciliation, failing which the matter would be taken by the individual directly to the Industrial Court.

In the final analysis, labour laws and their implementation cannot be viewed in isolation, but always in the framework of changing global market conditions, competitiveness and long term sustainable growth, and always focussing on not merely protecting and safeguarding workers’ interests but more importantly, constantly striving to improve their quality of life.

Notes

1 Industrial Relations Act Chapter 88.08
2 Labour Relations and Industrial Disputes Act of Jamaica
ANEXO
## Annex 1

### LABOUR LEGISLATION IN THE CARIBBEAN

<table>
<thead>
<tr>
<th>SUBJECT</th>
<th>COUNTRIES WITH STATUTORY PROVISIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employment Services</td>
<td>Barbados, Belize, Dominica, St. Vincent and the Grenadines, Trinidad and Tobago</td>
</tr>
<tr>
<td>Employment of Children</td>
<td>Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago</td>
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<td>Freedom of Movement of Skilled Workers</td>
<td>Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago</td>
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<td>Holidays with Pay</td>
<td>Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Vincent and the Grenadines, Trinidad and Tobago</td>
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<td>Industrial Court/Industrial Disputes Settlement Machinery</td>
<td>Antigua and Barbuda, The Bahamas, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia, Trinidad and Tobago</td>
</tr>
<tr>
<td>Occupational Safety and Health</td>
<td>Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, Suriname, Trinidad and Tobago</td>
</tr>
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<td>Maternity Leave</td>
<td>The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, St. Kitts and Nevis, Jamaica</td>
</tr>
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<td>Minimum Wage</td>
<td>Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Vincent and the Grenadines, Trinidad and Tobago</td>
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<td>Antigua and Barbuda, Barbados, Belize, Dominica, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago</td>
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<td>Social Security</td>
<td>Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago, Montserrat</td>
</tr>
<tr>
<td>Training</td>
<td>The Bahamas, Barbados, Belize, Dominica, Guyana, Jamaica, St. Kitts and Nevis</td>
</tr>
<tr>
<td>Unemployment Insurance</td>
<td>Barbados</td>
</tr>
</tbody>
</table>

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Executive Summary

In the past decade, there has been a lot of dialogue on the modernization of Ministries of Labour in the Caribbean. This occurred because globalization and liberalization have brought new challenges for labour administrations in this region. These twin processes have challenged labour administrations in:
- The diffusion of production systems and technology.
- Human resource development strategies;
- Changing employment patterns and its impact on collectivization.
- Adopting technological advances in Labour departments.
- Linking employment policy to investment policy among other issues.

Some Caribbean countries have recently sought to implement change and equip workers with the necessary tools and skills to succeed. However, in general, Ministries of Labour have lost their pivotal position as departments of Labour. In some cases, they are placed in other Ministries.

Notwithstanding, if this region is to survive and deal effectively with the issues raised in this study, then governments need to pay closer attention to their Ministries of Labour. They ought to be modernized, technologically relevant and outfitted with the correct legislation. Failure to do otherwise may cause the worker to be left behind, in the globalization process.

Introduction

Over the past decade regional and international dialogue has given accelerated impetus towards the modernizing of Caribbean Ministries of Labour. There is no shortage of conference proceedings, reports and expert opinion on the status and challenges facing Ministries, with responsibility for labour, across the globe and in the Caribbean.

A cursory look at the database highlights such literature as, inter alia: 
- Periodic Reports from the Caribbean Labour Ministers Meetings.
- “Modernization of the State and Labor Administration” Declaration of Viña del Mar Report to the Inter-American Conference of Ministries of Labor, Chile, 1998.

In the context of the English, Commonwealth or CARICOM states (excluding Suriname and Haiti) Ministries or Departments of Labour were established in the aftermath of Caribbean-wide disturbances in the 1930s.

The early British Commissions of Enquiry into the labour protests called for the
establishment of institutional mechanisms to deal with conflict and labour management. In this regard, the British government through its Labour Department, provided technical and human resource support to the Caribbean colonies in setting up Departments of Labour which by the period of Independence undertook the name change to “Ministries”.

However, objectives were already set to maintain industrial peace by legal and administrative instruments, and promoting labour institutions to mobilize and channel inevitable industrial conflict. A review of the early labour laws of several Caribbean nations point to that core mission of promoting the peace and creating institutions, some compulsory, for conflict resolution. Labour ministries also got involved in ancillary functions such as maintaining employment bureaus and supporting industrial training initiatives.

The historical perspective is helpful, in that it explains the use of labour ministries towards social and political development. The early focus of the labour ministries was primarily as a social and political entity enforced by law, not an economic actor, at least not directly. In several small territories the state was also the largest single employer, primarily in the agricultural and resource based industries. This meant that the government via the Labour Ministries, played a political and industrial role as party to dispute, the conciliator and the final arbiter. Ministries understandably held a political orientation whereby the regulatory and administrative emphases were determined by political and economic necessity. The first, to maintain social order in the face of lefti st ideologies and “anarchist” leaders and the second, to maintain industrial peace for economic advancement.

The key Ministry entrusted with leading the development effort was invariably the Ministries of Finance, to which planning and development portfolios were appended. Not surprisingly, the early Prime Ministers in the region were also Ministers of Finance, therefore the role and functions of Ministries of Labour were not of an economic and trade related nature and not central to economic decision-making. Colonialism is still existent in the region, i.e., economic policy-making sits at the Prime Minister’s office and maintenance of industrial peace at labour departments.

By the mid-1980’s, the wave of Reganomics and the Thacherism ushered in a neo-liberal framework and gave impetus to an adjustment regime in the region. Caribbean leadership posited that the region’s development was lined to an outward looking strategy of export led industrialization. Such a development approach included removal of barriers to trade, liberalization of capital markets and privatization. The employment effects were a result of a re-organization of production towards: capital intensity; technological adaptations; new management strategies; individualized collective relations; greater use of external labour markets.

Globalization has brought new opportunities for labour, but new challenges for labour administrations in the region. National labour institutions, such as trade unions, employer organizations, labour Courts and ministries, are all under scrutiny to respond to the changing realities in the labour market, global re-organization of production, new demands from every fluid industrial sector and technology.

In harmony with globalization, there is another transnational process of democratization. In a region well reputed for political stability and sound democratic credentials, other global influences and processes have impacted upon civic society. The mushrooming of the so called Community Based and Non-Governmental organizations (CBO’s and NGOs), environmental lobbies, assertive feminist groups and rejuvenated religious and cultural organizations, with social concerns, has meant that more voices need to be heard in social dialogue. The processes for dialogue have to be deepened, widened and sustained. A concerted effort and principled commitment to continuous dialogue is now a sine qua non for mobilizing human and material resources behind the development effort and national labour policymaking.

As a fundamental part of the change process, the region’s governments have moved with some measure of haste to ratify key ILO’s conventions. With the possible exception of St. Vincent and the Grenadines and the Bahamas, all English speaking Caribbean countries have ratified most of the
fundamental ILO conventions. Several countries seem unable to ratify conventions 138 (Minimum Age Convention 1973) and 182 (Worst Form of Child Labour Convention 1999).

Eight universal ILO standards have been identified as being fundamental to the rights of human being at work. They are as follows:
- Right to Organize and Collective Bargaining (Nº 98, 1949).
- Forced Labour Convention (Nº 29, 1930)
- Discrimination (Employment and Occupation) Convention (Nº 111, 1958)
- Equal Remuneration Convention (Nº 100, 1951).
- Worst Form of Child Labour Convention (Nº 182, 1999)

As a region, the Caribbean has not performed badly, such that the breakdown reads as follows:
- Nº 82 – 11 countries
- Nº 98 – 13 countries
- Nº 29 – 13 countries
- Nº 105 – 13 countries
- Nº 111 – 9 countries
- Nº 100 – 9 countries
- Nº 138 – 5 countries
- Nº 182 – 6 countries

Generally, principles and rights enshrined in the ILO standards have found a place in the region’s labour policy agenda.

A. New challenges

Following on the introductory discussion on globalization, we can discuss the new challenges to traditional labour administration systems. These challenges are the result of several factors, local and international, such as:
- The changing international division of labour.
- The diffusion of production systems and technology.
- The changing employment patterns and its impact on collectivization.
- Human resource development strategies.
- Adopting technological advances in labour administration.
- New challenges to old employment services.
- The integration of social and labour policy.
- The initiation of a culture of integration and partnerships.
- Linking employment policy to investment policy i.e., labour and economic planning.
- The role of Ministries of Labour in building wider national consensus on social and economic policy.

A wealth of literature exists on these issues and it is not necessary to elaborate in detail these challenges. These challenges can be separated between the external and new environment of the Ministries of Labour and the internal challenges facing the Ministries.

1. Overview of experiences

If the ILO’s efforts of setting standards are geared towards making Ministries of Labour relevant to the changing world of work and the new business environment, then Caribbean states must also be in harmony with ILO’s initiatives. There is a need to adopt the legal, policy and administrative instruments to give full expression to the ILO standards. New institutions can be identified for translating ILO rights and principles into policy and pragmatic actions. This approach must also be “reality based”.

2. Monitoring, compliance and enforcement infrastructure

Caribbean states have shown a lower capacity to introduce new monitoring and compliance regimes, or to overhaul the old institutions by injecting more quality human and material resources into these departments. Unless the region embarks upon a better quality of legislation for occupational health and safety, employment injury and compensation, worker protection and defense of rights to decent work, terms and conditions, the Ministry of Labour and labour courts face new challenges. In many cases compliance and enforcement desks or units are archaic.
Apart from poor human resource capacity, their external role has been diluted. Violations of labour codes are not treated with the same urgency and potency as criminal breaches. Cracking down on deviant employers is more the exception than the rule.

3. **Social dialogue**

As stated earlier, continuous social dialogue is a necessary strategy for combating social exclusion and alienation of local and national actors in formulating labour policy. The responsibility for initiating and driving the dialogue process falls squarely on the shoulders of the Ministries of Labour.

There have been some positive experiences to report in the region in relation to the creation of tripartite and multipartite institutions for social and economic consensus building. While comparatively speaking Barbados has developed, a mature and stable consensus building culture, as the several income and wages protocols demonstrate, several Caribbean countries have a “start and stop” history of flirting with national consensus building, only to abandon them in favor of political expediency.

Reports on the work of tripartite Committees and 144 Tripartite committee (as established in accordance with ILO’s convention), give some indication on how effective tripartite institutions have been in influencing policy, shaping protective legislation and ensuing institutions. Nine of the fourteen countries have ratified Convention 144 on Tripartite Consultation (International Labour Standards 1976).

4. **Human resource development**

As the Caribbean labour ministers noted, “the exposure of economies to global competition and the loss of protection, created new pressures to upgrade economic performance”. In the new scenario, labour and labour markets should assume a new role, since social and economic strategies depend increasingly on one major factor – the human resource and its development. Human Resource Development (HRD) was the central concern of the International Labour Conference at its 79th Session (1992). In this context Ministries of Labour need to revisit their historically defined mandate.

Training and re-training with basic and intermediary skills have become a core business of labour administrations. As work changes, the demand for unskilled labour has plummeted. Numeric skill, literacy, attitudinal tests and diligence have become qualities needed for the lower rung of the labour market. While training is usually the mandate of Ministries of Education and in some cases, specific Ministries, it is clear that training is a labour market function within the domain of labour administrations. Ministries must rise to play a dynamic role on the supply side of the labour market.

5. **Status of Labour Ministries**

Several reports have highlighted the dilemma of the loss of the pivotal position of the labour departments. Trinidad and Tobago, Suriname, Barbados and Antigua and Barbuda appear to be the only few countries in the sub-region where the Ministries have a primary mandate in labour and employment.

In the remaining countries, labour is subsumed into super Ministries dealing with a range of eclectic functions from Maritime Affairs, Home Affairs to Sports and Legal Affairs. What this means, is that labour and employment are neither the primary focus for human and material inputs nor a clear domain for policy emphasis.

The Ministry of Labour in Jamaica has been making efforts to introduce information and communication technology for “both internal efficiency and the efficiency of labour market analysis and planning”. In this regard computerization of the Ministry is well advanced. In addition, the Ministry in conjunction with the United States Department of Labour is in the process of putting in place a web based Labour Market Information System and an Electronic Labour Exchange.

The data in relation to the Pre-Conciliation Section is correct, except for the fact that the Section is not responsible for the Development of Training Programmes. However, the Ministry has in place an Outreach/Education programme, which seeks
to sensitize the working and the potential working population to their rights and responsibilities in a working relationship.

In addition, the Ministry has sought to make its services more accessible to the wider public through decentralization. In this connection, Regional and Parish Offices offering the full range of services rendered by the Head Office have been established.

Barbados has established the Technical and Vocational Education and Training Council (TVET). This tripartite body is charged with the responsibility to establish standards for TVET, training priorities, tests, qualifications and accreditations.

Other human resource development initiatives include the establishment of a language centre at the Barbados Community College, as well as, the strengthening of the technical training institutions.

The Ministry of Labour has launched a web site, through a restructured Manpower Research and Statistical Unit, to ensure that pertinent labour market information is readily available for all. Some features of the recently established Internet-based Labour Market Information System (LMIS) include a Job Search Module, an Employer Posting Vacancies Module and a Skills Bank Module.

At the National Employment Bureau (NEB), a computerized Employment Service Information System (ESIS) is being implemented to facilitate storage and easy retrieval of information.

Some staff of the National Employment Bureau has undergone training in Employment Guidance Counseling.

B. A status report on new initiatives

Several Reports were proffered at the Caribbean Labour Ministers Meeting in Kingston, Jamaica in April 2000. The ILO, through its Caribbean Director, stressed the need for aligning the objectives, structures and programs of the Ministries with the new demands of globalization and free trade. He also asserted that internal management strategies and practices, long associated with the civil service culture, will need modernizing to reach the high performance, efficiency driven and target oriented organizational transition required. Measuring performance and replacing “non-communicative” practices were seen as crucial, alongside the inevitable adaptation to information technology. The gradual movement away from a tradition and sole concentration on the dual yet core functions of managing labour relations and ensuring social protection, must give way to vigorous labour market planning, using active labour market policies to promote equilibrium between labour demand and supply.

The ILO laments the fact that while competencies and capacities are in sync with the traditional policy priorities (labour relations and social protection), there is a gap between the competencies and capacities found at the Ministries and what is required to mound a challenge in the newer domain of employment and labour market policies.

The workers movement’s input revolves around increasing the efficiency of labour dispute resolution mechanisms, tripartite fora and expanding the influence of labour departments. The trade union movement also seems to be eager to participate more fully in regional and international trade negotiations with a view to bringing labour standards to the fore front of trade and investment agreements.

The employers on the other hand, highlight the need for strategic thinking and frameworks to formulate and implement legislative and policy measures that impact upon industry and the labour market. Other key issues to the employers include the further computerization of Ministries operations, providing adequate budgetary and human resource support to the Ministries and the promotion of alternative dispute resolution mechanisms.

On the topic of new developments and initiatives in labour administration, we can summarize the thinking, initiatives and advances being considered and implemented within the sub-region.

While there is unambiguous commitment to modernizing labour institutions and fighting for a higher status, accompanied by greater human and financial resources, we find that this is still an aspiration waiting for political will. The report card for the sub-region is mixed. We can classify the initiatives as follows:

- Several countries (Bahamas, Bermuda, Grenada, St. Kitts, St. Lucia, Trinidad and Tobago) are on the way towards reforming and
repealing outdated labour codes, which were promulgated in the post-independence era. The new laws deal with modern standard setting, decent terms and conditions of employment, including job separation, and social protection.
- The application of international standards of technology and knowledge based instruments for health and safety are at the core of several proposed pieces of legislation. The ILO sponsored CARICOM model legislation is inspiring this positive development in the region.

Ministries of Labour in the region have also responded to the need to diversify their objectives in keeping with a strategic focus on economic growth and industrial development, i.e., preparing the labour market for globalization. Strong initiatives in the area of HRD and training can be found in Montserrat, St. Lucia and recently Trinidad and Tobago. In the latter country, a much-maligned labour intensive public works scheme is being transformed into a vehicle for imparting and upgrading basic and elementary skills of the unskilled and urban unemployed.

The region’s labour administrations appear to be making headway in the adaptation of information and communication technologies for both internal efficiency and effectiveness of labour market analysis and planning. Efforts at computerization of Ministries in Antigua and Barbuda, Belize, Dominica, St. Kitts, St. Lucia and Trinidad and Tobago were at an advance stage. The introduction of a web based labour market information systems, in addition to the traditional walk-in employment centers, augurs well for the integration of labour market data into economic and business planning at both sectoral and national levels. This experience suggests that Ministries are coming of age, whereby labour market data and analysis are proffered by labour experts and not left in the domain of central government statistical collectors.

It is in the area of social dialogue that several countries have shown commendable advances. Strong efforts have been made to establish social dialoguing fora in the Bahamas, Barbados, Belize, Jamaica and Trinidad and Tobago. A National Advisor on social dialogue has been appointed in Belize where legislative actions are trying to promote trade union recognition and effective collective bargaining.

In Jamaica, the social partners are conscious and weary of the long-standing culture of adversarial labour relations that impede enterprise level co-operation and productivity alliances. An approach defined by “constructive cooperation” has been identified as being more progressive. Jamaica has been attempting to institutionalize mechanisms for non-conflict meetings. A pre-conciliation unit was established in 1995, this takes a proactive approach to potential industrial relations disputes, taking steps to guide the parties at an early stage, towards peaceful resolution. The social partners have also agreed to the establishment of a tripartite productivity center.

The work of the pre-conciliation unit was:
- To foster industrial harmony by reducing the level of industrial action and the number of work days lost.
- Improving labour relations and improving the lines of communication between labour and management thus - for better sectoral agreements.
- Developing training programs.

The Ministry of Labour - Trinidad and Tobago has also embarked upon non-conflict type meetings in specific industries, such as the steel industry. The challenge is to institutionalize this approach, rather than operate on an ad hoc basis.

Barbados is the region’s leader in establishing institutions for social dialogue and national mobilization towards social and economic policy making. Although their Income and Prices Policies have faced some criticism, there is no doubt that the foundation exists for long-term institutionalized corporation between trade unions, employers and the government.

In the context of Barbados, Trinidad and Tobago and recently the Bahamas, the approach has been to convene high-level multi-partite fora partly driven by the Ministries of Labour, but more the product of Prime Ministerial initiative and inspiration to address the broad developmental challenges facing those countries. Labour policy is therefore center stage in such an approach. Trinidad began this experiment in early 1996
with a multipartite commission charged with bringing labour, business, the church, the NGO’s and the state to settle to work to jointly address the development problems. By year 2000 a Social Compact was signed (Appendix 2 gives a summary of the “Declaration to Address the Social and Economic Issues”).

- **Productivity bargaining**

  To what extent has Ministries been able to initiate or support productivity bargaining via tripartite institutions?

  Labour productivity, while critical to economic growth, remains a footnote to the core functions of Ministries.

  The increasing diversity in the conduct of labour relations suggests that Ministries can find themselves out of sync with the demands of new employers and workers. However, the Protocols in Barbados and initiatives in other countries also address the critical issue of linking productivity to wages and incomes.

- **Ministries of Labour, internal challenges**

  An outstanding challenge to Ministries of Labour remains the assumption of a key role in economic decision-making, this involves status and relevance. Many Ministries need to re-invent themselves in order to meet and match the demands of the real world of work. Visionary leadership and critical support are required from Ministers and Prime Ministers in the region.

  Relevance and status must be integrated, Ministries cannot complain about status if they have not made themselves relevant. A comprehensive strategic policy framework must be the critical pillar in proving relevance and bringing the Ministries in alignment with economic reform and industrial transformation.

  The internal challenges involves:

  - Human resource upgrading.
  - Reviewing terms and conditions of work for staff, job specifications, placement, multi-skilling.
  - Adopting state of the art information technologies.
  - Adopting where possible, given civil service regulations, innovative management practices.
  - Reorganization of structures to factor in the expanded services and newer roles, e.g. compliance, employment services, labour market planning.

  A resource crisis exists at several Ministries of Labour; while there is need for wider executive acceptance and responsiveness to the labour and employment agenda (seeing investment and not spending on labour initiatives), this also requires sectoral leadership and political commitment. Financial resources provided to Ministries of Labour must be seen as an investment and not an expenditure.
ANNEX
Annex 1

NATIONAL HUMAN RESOURCE MANAGEMENT INFORMATION SYSTEM

Trinidad and Tobago

1. NHRMIS Progress to date

In April 1993, the Ministry of Labour and Co-operatives hosted a National symposium on employment and job creation. The symposium mandated the Ministry to develop a National Human Resource Management Information System (NHRMIS) to create and maintain labour market equilibrium, through optimal human resource development and utilization.

In 1998, the Ministry’s efforts to secure funding for the development of the NHRMIS were finally realized. The firm of Management Systems International was contracted to execute the project, under the supervision of an Inter Ministerial Project Management Committee.

In October 1999, the NHRMIS was handed over to the Ministry by the consultants. The Ministry has, since then, sought to populate the system, and now possesses the facilities for data entry, storage and retrieval of labour market, education and training and national accounts data. The NHRMIS in its present form can inter alia:

- Provide information on a pool of workers in Trinidad and Tobago.
- Provide data for original research thereby contributing to public policy debate and government programme formulation.

The NHRMIS comprises the following datasets:

Labour market data. Using the CSO’s sample survey of the population (CSSP) as a source, NHRMIS provides detailed information that can be desegregated across a number of dimensions, for example labour force status, occupation classification, industry classification etc.

Education and training data. Information on agencies, institutions, and specializations of private and public sector agencies is collected and entered into NHRMIS. The type of data collected includes enrolment and graduate data by institution and specialization, and faculty information, and a series of geographical breakdown.

Dictionary of Occupations for Trinidad and Tobago (DOTT) and Standard Industrial Classifications (SIC). The DOTT and SIC and the international SIC equivalents is incorporated into NHRMIS as utility tables. The importance of this capability is that it makes available the coding structures in hard copy or digital format. This is especially important as new classifications and/or additions to these coding structures are likely after the 2000 census. By having the digitized format for these coding systems available, updates to these lists will be much simpler.

CSSP data. NHRMIS makes the CSSP data available in its raw format and provides a ‘data dictionary’ describing the details and nuances of each field name. Making this data available will provide the capability to conduct research.

The immediate objective of the system is to provide timely, accessible and reliable data on the labour market according to a number of categories. For example, age, gender, occupational and industrial group and administration area. Information is also available on education and training institutes, programmes offered and entry requirements.

2. Development plans for NHRMIS

The data is expected to be interpreted and analyzed by the Ministry and users to achieve inter alia the following specific outputs representative of a functional labour market information system:

- Provide information to facilitate a wide range of policy making decisions.
- Generate information on the features and dynamics of the labour market in both short and long term, across geographic and economic sectors.
- Provide characteristics of the unemployed.
- Allow for micro analyses of the data at a more desegregated level in terms of gender, age, area, sector etc.
- Determination of existing and prospective employment opportunities and the ranking of relevant occupational categories and anticipated earnings in such jobs.

The NHRMIS is also critical in the provision of data for original research which directly would impact on policy formulation. The aforementioned outlined objectives are designed to enhance policy planning with respect to human resource development and assist employers and worker organizations in planning their individual programmes and policies.

The following are selected research topics being considered for the near future using the data within the NHRMIS as its base:
- Identification of shortage occupations which would be of interest to public and private training institutions as a means of setting priorities.
- Wage differentials by gender, ethnicity and other demographic characteristics.
- Comparison of educational backgrounds of unemployed, employed and those not in the labour force.

The Ministry also anticipates the conduct of special surveys in the areas of research pertinent to the government’s policy formulation.

It is important to note that the NHRMIS at present represents only the initial phase of the necessarily long-term process for the system’s development. The system has the capability to be developed further to meet the varied requirements of a labour market information system and the Ministry is working to realize this development.

3. Website development

The Ministry has finalized the development of a web-based system to provide information to the public. This system is globally accessible on the worldwide web. On the Ministry’s website, one is able to access NHRMIS data, as well as other information about the Ministry, inclusive of contact address, summaries of labour legislation and ratified ILO conventions.

The website also provides an entry point to the National Employment Service online services. The automated employment service comprises four broad categories:

- Jobseeker information.
- Employer information.
- Job matching capability.
- Administrative functions.

The automated system is beneficial in the following respects:

- It will provide the efficiency of the current system.
- It will allow labour market exchange information to be assessed quite easily and processed more rapidly.
- It will act as an intermediary between employers and job seekers, in some cases, or allow for jobseekers to respond directly to job posting.
- It will allow for proper monitoring and evaluation of the National Employment Service which is an important line of business for the Ministry.
Annex 2

COMPACT 2000 AND BEYOND. DECLARATION OF THE SOCIAL PARTNERS TO ADDRESS ECONOMIC AND SOCIAL ISSUES

The social partners comprise representatives of the Business Sector, the Labour Movement and the Government of Trinidad and Tobago:

Agreeing on the primary objectives to:

- Achieve sustainable development with particular attention on the environment and the protection and enhancement of our natural resources.
- Maintain a stable and collaborative industrial relations climate.
- Foster the need for greater productivity and competitiveness.
- Enhance the social security system including issues of health care, pensions and savings.
- Ensure a highly efficient, effective, professional and customer-oriented public service.
- Actively promote human development through higher levels of investment in education, vocational training and housing among others.
- Create new avenues for expansion of the economy through encouraging local and foreign investment and thereby increasing production of goods and services.
- Develop a long-term strategy to substantially increase the level and quality of employment.
- Develop and implement strategies to generate higher employment levels, a more equitable distribution of income and promote social stability.
- Establish a suitable mechanism to monitor the achievement of these objectives.

Hereby undertake to:

- Jointly promote a defined campaign towards co-operation and understanding at the national, sectorial and industrial level for the purpose of foregoing a developmental path aimed at sustainable economic growth and social equity.
- Jointly promote good industrial relations practices, principles and philosophy of Joint Consultative Councils (JCC’s) and Non-Crisis Committees.
- Make every effort to remove suspicion, distrust and adversarial industrial relationships wherever they exist or tend to arise.
- Co-operate in promoting a pervasive campaign on greater productivity, efficiency and effectiveness in the workplace.
- Co-operate in the restructuring and designing of the pensions system in Trinidad and Tobago with the objective of providing adequate and realistic pensions for the entire workforce. This will improve the social security systems and increase the levels of savings in the economy.
- Co-operate and participate in the review, restructuring, re-engineering and transformation of the Public Service of Trinidad and Tobago to make it an effective Central Institution with the requisite capacity and competency for implementing Government’s plans and policies and which would facilitate the goals and objectives of the other social partners.
- Co-operate in the development of cost effective and accessible ways of acquiring and maintaining the best relevant skills and expertise for guaranteeing productivity, competitiveness and efficiency at the workplace.
- Jointly explore, in addition to wage and salary, existing compensation structures, with the aim of seeking new and innovative ways to compensate employees.
- Implement measures to support local production of quality goods and services in order to increase earnings and employment.
- Explore avenues for expansion of the economy, concentrating particularly on development in areas with a potential for generating employment.
- Provide training facilities to develop the marketable skills of all nationals, in particular, those of young persons, women and disabled persons and direct efforts specifically towards
making employment opportunities available to these citizens.

Notes


6 See Annex 1 for a description of the National Human Resource Management Information System of Trinidad and Tobago.
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Executive Summary

Globalisation and the conditions which exist for conflict have driven home, forcefully to Caribbean Government the inescapable necessity to work together in harmony with the social partners, Non-Government Organisations (NSO’s) and civil society to ensure consensus, fair and effective competition, improved labour production and quality goods and services. This is crucial to ensure long term economic growth and sustainability of these economies. It is against this background that the working paper, about best practices on social dialogue and dispute settlement machinery in CARICOM has to be located.

The work was formally commissioned on June 1, 2001 and the final product delivered to the International Labour Organisation (ILO) on September 14, 2001. There was some major regional research to a number of Caribbean countries which provided many useful comments from various government officials on this “Paper”, specially during the CARICOM meeting held in Port of Spain, August 29-30, 2001 which were ultimately incorporated in the final product.

The working paper analyses the concept of social dialogue and alternative dispute machinery in the Caribbean community, in the context of economic integration and the pressures of globalisation and trade liberalisation. A stable industrial relations environment is not only necessary for national, social and economic development, but is sine qua non for improving and advancing the quality of life of workers in the region.

The working paper examines in detail the role of CARICOM in the promotion of social dialogue. The main protocols were outlined, as well as, the many critical documents essential in advancing the principles of tripartism in the context of the regional integration movement such as the charter of Civil Society and the Declaration of Labour and Industrial Relation Principles.

Major findings

CARICOM is committed to social dialogue and many non-government organisations and institutions have been established to ensure its promotion among the social partners. Both the Caribbean Employers Confederation (CEC) and the Caribbean Congress of Labour (CCL) are jointly involved in a pilot project sponsored by the European Union aimed at sensitising its members.

Social dialogue as a concept is well established in the region. In the majority of countries, it is being promoted and encouraged. Many experiments are now under consideration in many countries.

Social dialogue is in operation at the national sectoral and enterprise levels in almost all of the CARICOM Countries. The experiences of 5 Caribbean members/states when analysed most suggests that Barbados is the most advanced and successful in the social dialogue experiment. The remaining countries of the Caribbean, which were analysed, have either had pious declaration without any follow through or the government have failed to live up to their part of the arrangement.

There has been some degree of success in social dialogue at the sectoral and enterprise level, especially in Jamaica and Barbados.

The system of alternative dispute resolution procedures varies from country to country. In some countries, the procedures to
settling disputes are rooted in a legal framework, whilst a system of voluntarism exists in other. There are clearly defined stages required to be undertaken prior to open legal action. This includes negotiation, mediation, conciliation and arbitration.

In CARICOM, there exists limited forms of conflict self-resolution. This area is not supported by the Trade Unions. Social dialogue and alternative dispute resolution procedures should be actually promoted in the interest of economic and social development in the Caribbean Community. In this regard, the government should take the lead and lay the basis for the development of trust, cohesion and harmony in the national interest of the country and the region.

Social dialogue is vital and necessary to achieve unity, stability and harmony in the industrial relations arena. Urgent labour market reforms are needed in the region and should be undertaken within a framework of social dialogue in order to achieve national development objectives and improvement in overall productivity.

**Introduction**

Over the last two decades, globalisation and rapid technological developments have impacted the Caribbean so fundamentally that these economies have had little choice but to accelerate their drive for the establishment of a Caribbean Single Market and Economy. However (the end of the banana regime based on a World Trade Organisation ruling) failure to secure the region’s push for parity and the drive towards the establishment of the free trade area of the Americas (FTAA) by 2005 hold ominous consequences and implications for the future stability and economic development of the Caribbean Community in particular and the workers and their organisations in general.

The issues of the labour market are real. The struggle for greater market access is fierce. And the obvious lack of preparedness on the part of the Caribbean Community to face up to these major challenges are manifestly known. The stakes are undoubtedly high. Hence the urgent need for the various social partners including NGO’s and civil society to work together in a spirit of genuine social dialogue to compete fairly and effectively in the global market place. Policies are clearly required to raise labour productivity, reduce cost, increase output and generate more secured employment opportunities for the workers.

The challenge is not an easy one, but certainly not insurmountable. Hence the need for consensus and cohesion and genuine trust among the social partners in the region. Uneasy industrial relations systems in the Caribbean based on distrust, suspicion and division must give way to one of harmony, unity and genuine co-operation.

In the context of economic integration in a period of hostile international competition, it is necessary for the key players to cohere and coalesce. This is vital for the region’s survival and continual growth and development. Globalisation as a worldwide process of economic integration has impacted on all spheres of people’s lives, including employment, wages and social protection systems. This working paper addresses the question of social dialogue and the need for a more harmonious and less adversarial industrial relations system as well as alternative dispute settlement machinery. This “Paper” advances several measures that ought to be examined in the framework of social partnership.

In Section I, it anchors its approach in the context of economic integration and the challenges posed to this process by globalisation and trade liberalisation. The “Paper” looks at social dialogue as a virtual subject of modern democratic governance. Participants in this exercise seek to contribute to an improvement in the decision-making process. The “Paper” provides clear definitions and clarification on the concepts utilised, particularly social dialogue and alternative Dispute Resolution procedures, and the “Paper” analyses the various elements which constitute these procedures viz negotiation, mediation, conciliation and arbitration, as efforts are made to avoid open litigation.

In Section II, the “Paper” examines the formal and informal machinery for consultation and dialogue, involving
employers and workers in respect of policy design in CARICOM.

Section III analyses the current Caribbean wide attempt at promoting social dialogue involving the umbrella of parent organisations such as the Caribbean Employers Confederation (CFC) and the Caribbean Congress of Labour (CCL).

In Section IV, the ‘Paper’ looks at the critical importance and role of trust in the social dialogue framework and examines appropriate experiences to emphasise its significance.

In order to objectively assess the importance of consensus, in promoting not merely a better industrial relations climate, but the vital necessity to utilise social dialogue to advance economic and social development, the “Paper” analyses the experiences of 5 Caribbean community member states in their attempt at promoting national consensus in addressing key issues of competitiveness, labour productivity and quality. These countries are Trinidad and Tobago, Barbados, Jamaica, Guyana and Grenada.

Social dialogue is evaluated not only at the national level but also at the sectoral and enterprise levels. Chapter VI of the “Paper” examines the machinery, which seeks to cover participant sectors.

Chapter VII looks at the various tools of conflict resolution in CARICOM while Section 8 briefly examines the different approaches to conflict self-resolution. The “Paper” concludes by providing a number of suggestions for the promotion of social dialogue in the Caribbean Community.

A. Background

Globalisation, is a process, which involves not merely the integration of economies, but the integration of technologies, cultures and even new forms of governance. This process if not only transforming the traditional ways of working and living, but is indeed forcing businesses to adjust and adapt in order to survive and develop. Innovative and new production structures, along with new forms of work organisation in the Caribbean and across borders, are challenging the social partners and, particularly, trade unions, to develop appropriate strategies and structures to ensure more adequate and effective representation of working people.

As in small, open and mostly island economies, the Caribbean Community has had to make the necessary adjustments to survive in a harshly and highly competitive international environment. The transition from a basic common market concept to the creation of a Caribbean Single Market and Economy is designed not only to establish greater economic space, in order to promote better investment opportunities, but also to prepare the region to deal with the many challenges posed by globalisation, trade liberalisation, economic integration and deregulation.

Globalisation, privatisation, deregulation, trade liberalisation and increased competition have brought labour issues to the forefront, if not implicitly but explicitly. Labour market issues both on the demand and supply side, cannot be addressed in isolation but within a broader framework of national development and modern governance. It is therefore imperative that, workers, employers and governments reach out to each other and work co-operatively to ensure that domestic businesses compete effectively in the global market place. Active policies and programmes should be promoted on a platform of social dialogue aimed at improving labour productivity as well as reducing cost, and in the process contributing to higher output and greater employment security.

CARICOM is committed to a policy of social disclosure and tripartism. This is manifested in Article 49(b). Under Article 49(b), the Council for Human and Social Development shall inter alia promote among others, “the objectives of full employment, improved living and working conditions, adequate, social security policies and programmes, tripartite, consultations among government, workers and employers, organisations and cross-border mobility of labour”.

In this ‘Paper’, social dialogue will be analysed not only in the context of the social partners’ bid to promote meaningful social and economic development in the region, but also in the context of a new system of governance.

Social dialogue is not just about mere conflict resolution. It also addresses the issue of the quality of decision-making. It is about
developing economic and social policy. In this regard, social dialogue could be viewed as a virtual subset of the broader governance issue. A powerful form of social dialogue is now being experimented by the Caribbean Congress of Labour, Caribbean Employers Confederation and the International Labour Organisation among others in the region.

- **Definition and clarification**

According to the Final Declaration of a Conference entitled “Promotion of Social Dialogue in the Wider Caribbean” held in Port-of-Spain, Trinidad on 12th - 14th April, 2000, social dialogue is defined as including “all types of negotiation, consultation on exchange of information between or among representatives of governments, employers and workers on issues of common interest, relating to economic and social policy. The aim of the social dialogue process is to operate within a framework of trust and co-operation”.

In this presentation, alternative conflict resolution is taken to mean alternative dispute resolution and will be so accordingly interpreted. Alternative Conflict Resolution refers to processes for resolving disputes other than litigation.

In the Caribbean Community there are a variety of processes that have been utilised over the past decades to resolve disputes, which at times, could prove to be extremely expensive. Reference is made to negotiation, mediation, conciliation and arbitration.

- Negotiation can be defined as any form of communication between two or more people for the purpose of arriving at a mutually agreeable solution. In a negotiation, the disputants may represent themselves or may be represented by their agents. The people involved in the negotiation maintain control over the entire negotiation process.
- Mediation is a non-binding process in which an impartial third party facilitates the negotiation process between the disputants. As the mediator has no decision-making power, the disputants maintain control over the substantive outcome of the mediation.
- Conciliation is a process, which seeks to encourage disputing parties to discuss their differences with a view to assisting them to arrive at their own solution.
- Arbitration is a process in which a neutral third party or an odd-numbered panel of neutrals renders a decision based on the merit of the case.

**B. Formal and informal machinery for consultation and dialogue involving employers and workers in respect of policies in CARICOM**

Formal and informal machinery for consultation and dialogue involving employers and workers in respect of policies design in CARICOM has always placed great emphasis on a harmonious Industrial Relations climate. Functionally, CARICOM addresses three regional aspects, i.e., economic integration via: a) the common market, which is designed to promote free trade; b) foreign policy coordination and; c) the cooperative provision of common services, including education, culture, an enhanced role for women, as well as labour.

The International Labour Organisation and functional cooperation was included within c).

Recently, CARICOM revised its institutional structure (1997). The current structure includes first, The Conference of Heads of Government. This is the highest organ of the Community, responsible for providing policy direction and decision-making on matters relating to Treaties and CARICOM’S relationship with other international bodies, and states. The second highest body of the Community, responsible for strategic planning and coordination in economic integration, functional cooperation and external relations is the Community Council of Ministers. There are also four other Councils:

- The Council for Foreign and Community Relations (COFCOR).
- The Council for Human and Social Development (COHSOD).
- The Council for Finance and Planning (COFAP).

Under Protocol I, the COHSOD is given responsibility to promote and develop co-ordinated policies and programmes to improve living and working conditions of workers, and
take appropriate measures to facilitate the organisation and development of harmonious labour and industrial relations in the Community.

Additionally, as noted in the Introduction, the Community has envisioned a certain labour and industrial relations climate for itself in Protocol III, which deals with Industrial Policy.

Article 49 (b) of the Protocol indicates that:

“The Council for Human and Social Development (COHSOD) shall, in consultation with the Council for Trade and Economic Development (COTED), formulate proposals and adopt appropriate measures for the promotion of harmonious, stable and enlightened industrial relations in the Community. In formulating such measures and proposals, the COHSOD shall, inter alia, promote:
- “the objectives of full employment; improved living and working conditions; adequate social security policies and programmes; tripartite consultations among Governments, workers and employers organisations; and cross-border mobility of labour;
- the recognition of the principle of non-discrimination;
- the establishment and maintenance of effective mechanisms for the enhancement of industrial relations, particularly that of collective bargaining;
- the awareness among Community workers and employers that international competitiveness is essential for social and economic development of Member States, and requires collaboration of employers and workers for increased production and productivity in Community enterprises”.

The Community is fortunate that, when implementing Protocol III, it can be guided by the CARICOM Declaration of Labour and Industrial Relations Principles, which was unanimously approved in April 1995 by the Ministers of Labour, after intensive tripartite consultations.

The Secretary-General indicates in the foreword to this Declaration that:

“The Declaration sets out the general Labour Policy to which the Region aspires, consistent with international labour standards and other international instruments. It is an important guide in labour matters for the social partners and will contribute to the development of a healthy industrial relations climate, and enhanced social partnership. It underscores the rights and responsibilities of the social partners, and provide the basis for the development of national labour policies, and inform the enactment of legislation.”

The Community can also turn to other regional and international instruments for guidance, most notably the Charter of Civil Society, which also outlines workers and related rights, the ILO Declaration of Fundamental Principles and Rights at Work and its Follow Up and the UN Global Compact.

The Charter of Civil Society has now been signed by most CARICOM Member States. It is considered to be one of the instruments supplementing the Treaty that establishes the Caribbean Community. In it, the People of the Caribbean Community resolve to pay due regard to the principles by which our Governments commit themselves to respect and strengthen the fundamental elements of a civil society. The Charter broadly defines social partner, to mean the Government of a State, Associations of Employers, Workers Organisations and such Non-Governmental Organisations as the State may recognise. The Charter considers the freedom of movement within the Caribbean Community to be fundamental. Equal opportunity for employment and equal remuneration for work of equal value, are recognised along with non-discrimination in the event of pregnancy and lactation within a framework aimed at strengthening gender equality. In Article XVIII, rights of participation in the economy are outlined, and a commitment to full employment policies is expressed. The States undertake, in particular, to collaborate with the social partners to provide creative employment for young people and disabled persons.

In Article XIX of the Charter, workers’ rights are set out in some detail, including a range of:

- Freedom of association.
- Collective bargaining.
- Occupational safety and health.
- Non-discrimination.
- Social security rights.
While the protections articulated in it may vary somewhat from those contained in international instruments, (including some core International Labour Standards), the savings clause in Article XXVII clarifies that “nothing in this Charter shall be interpreted as impairing the provisions of any regional or international agreement to which States are parties”.

Finally, more attention is paid to the role of the social partners in Article XXII, to the extent that, the States “undertake to establish within their respective countries a framework for genuine consultations among the social partners in order to reach common understandings on and support for the objectives, contents and implementation of national economic and social programmes and their respective roles and responsibilities in good governance”.

To ensure that the Charter is effectively implemented, each State is required to establish a National Committee or designate another body to monitor and ensure compliance. In either case, the composition is tripartite, plus admittedly, the relevant provision does not address the details of ensuring equitable representation between the traditional social partners within the ILO’s definition of the term. For the purposes of the Charter, the National Committee or other body must include:
- Representatives of the State,
- Representatives of the other social partners.
- Other persons of high moral character and recognised competence in their fields of endeavour.

The National Committee has the power to analyse any problems and difficulties experienced in implementing the Charter, which would suggest that it is vested with independent research and investigatory powers. The National Committee or other body is also empowered and required to receive reports of allegations of breaches or non-compliance with the Charter. The breach or non-compliance can be on the part of the State or one or more social partners. The one apparent restriction, is that the matter cannot be adjudicated upon by an international body whose decision is binding upon the State. The National Committee or other body is required to notify the State or social partner concerned of the allegation and request their comments. Ultimately, the National Committee or other body is required to report to the Secretary General of the CARICOM. That report is to include the National Committee’s views on the matter. The Secretary General submits the reports for consideration by the Conference, on an annual basis and is responsible for informing the States and National Committee of the results.

Another supplementary instrument to the Treaty established in the CARICOM is the CARICOM Agreement on Social Security. As at 29th August 2001, 13 member States had signed the Agreement, while six had also ratified it. This Agreement covers invalidity, disability, old age retirement and survivors’ pensions, as well as death benefits paid in the form of pensions. It takes a particularly important step toward facilitating the free movement of persons, by allowing a certain social security benefits to be accumulated across member States, and overcoming some of the procedural hurdles associated with different legislative requirements, such as totaling the required contribution periods to ensure that concerned persons do indeed benefit from the social security entitlements.

A Committee is established to “settle every administrative question” arising from the terms of the Agreement. This Committee is apparently not meant to take the place of national administrative bodies that address social security questions, however the procedures established for claimants to apply for benefits focus on the competent institutions within each Contracting Party to the agreement.

The CARICOM has also issued a Declaration of Labour and Industrial Relations Principles in 1995, during the Third Meeting of the Regional Tripartite Working Party of Labour Officials. This is also designed to deal with social dialogue and conflict resolution. The Declaration articulates many basic labour relation principles. There are also some divergences. As a Declaration of Principles, the instrument is not subject to ratification, and does not contain measures to ensure that the principles contained within it are actually put into force. In this regard, the Charter of Civil Society can be said to reflect a deeper level of actual social policy integration, although the precursor Declaration certainly
suggested a degree of convergence over the shape that CARICOM’s social policy should take and its importance within the regional grouping.

C. Experience on agreements on wage policy, employment policy and social dialogue

In order to successfully promote (economic) integration and address competitiveness on a sustainable basis, there is need to establish a stable economic and social climate, in which the various stakeholders can participate legitimately and equitably in fundamental policy decision-makings.

Competitiveness is therefore anchored in a framework of consensus, which necessitates an ongoing commitment to social dialogue and agreements at various levels of the society. A key ingredient to improving competitiveness is a desire not only to address the issue of productivity, but also quality. This requires huge investments in technology, trust, training and meaningful participation, especially by the working people.

Strategic social dialogue at the national, industrial/sectoral and enterprise level offers exciting prospects and growing potentials in addressing the current challenges of competitiveness and efficiency, as well as employment opportunities, social protection and equity for the working people of the Caribbean.

Workers are located at the center of economic development, both as the provider of labour services and beneficiary of their productive output. In a period of globalisation and mounting competitiveness, it is essential that the social partners both recognise and acknowledge the urgency of genuine labour market reforms.

The fact is, that global competition is not only threatening but also actually reducing job security in the region. It is therefore necessary for social partners to engage in a programme of continuous education and retraining to ensure flexibility in the labour market place.

In addition to fierce global competition, the region has experienced an erosion of its preferential treatment through a recent World Trade Organisation ruling. Coupled with a loss of strategic importance and a reduction in the availability of soft loan financing, the Caribbean Community business sector is now faced with stiffer international competition.

These realities have now made it absolutely imperative for the social partners to co-operate meaningfully in a framework of consensus, as a means of addressing the issue of competitiveness and ensuring the long-term growth of the Community. A major obstacle to effective social dialogue in the Caribbean is not the lack of enthusiasm on the part of the social partners, but their weak institutional capacity to effectively and competently participate in social dialogue.

The significance of social dialogue in the promotion of democratic governance, as well as, strengthening the institutional capacity of the social and economic actors to cope with the challenges of globalisation and trade liberalisation should not be underestimated.

Many exciting experiments are currently taking place both at the national and enterprise levels, as the various social partners attempt to effectively engage in social dialogue.

At the February 2001 meeting of the CARICOM Heads of State, a regional business and labour advisory committee was established to advise on matters relevant to the integration process. It is further recommended that there should be the establishment of advisory committees at the national level inclusive of business, labour and civil society.

The Government of St. Vincent and the Grenadines recently announced the establishment of a tripartite social and economic council; Suriname recently established a tripartite social and economic committee; Barbados continues its high level tripartite consultations on social and economic matters; Jamaica is also seeking to revive discussions on the establishment of a tripartite social contract; and Trinidad and Tobago undertook the final step in October 2000 towards the formulation of a tripartite social and economic compact.

In 2002, the Secretariat of the Organisation of Eastern Caribbean States (OECS) and the ILO will hold a major tripartite meeting on social dialogue; Belize has successfully begun to engage in a social dialogue process.

At the sectoral level, social dialogue is being utilised as a tool to address many problems. For example, Jamaica and Suriname
have introduced social dialogue mechanisms in the bauxite sector; Belize has done the same in the agri-processing sector; and Barbados has established sector-wide collective agreements in the hospitality sector.

These are some of the current experiments on social dialogue occurring or contemplated in the Caribbean Community.

D. The critical issue of trust in social dialogue

The critical issue of trust and its absolute significance in the context of the success of any social dialogue effort cannot be underestimated.

In his book entitled “Trust”, the author, Francis Fukuyame\(^1\) argues that in any modern society, the economy constitutes one of the fundamental arenas for human sociability. He goes on to argue that “while people wish in organisations to satisfy their individual needs, the workplace also draws people out of their private lives and connects them to a wider social world. That connectedness is not just a means to an end of earning a paycheck, but an important end of human life itself.....” “One of the most important lessons we can learn from an examination of economic life is that a nation’s well-being, as well as its ability to compete, is conditioned by a single pervasive cultural characterisation: the level of trust inherent in the society”.\(^2\)

The author establishes the crucial importance of trust. Where it exists at the enterprise level, there is success; where it does not exist, failure is evident.

In the context of the Caribbean Community, it is necessary to focus on the partnership model in the Caribbean Community hinges on the role of trust among the social actors. The role that trust plays on the development of any successful social dialogue model has been further underscored by Kieran Mulvey,\(^3\) in a Report prepared for an ILO/EU Meeting held in Port of Spain on March 2000. Mr. Mulvey stated:

“the importance of tripartism and indeed bipartite agreements and that role in the positive resolution and support of workplace relationships between Government, employers and Trade Unions is clearly recognised in many EU social dialogue institutional processes, in ILO conventions, natural laws and the system of free collective bargaining itself. However, these developments need to be strengthened, encouraged and supported. It also implies a high degree of trust between social partners on the one hand and with Government on the other. The building of that trust, its maintenance and its sustainability requires a high degree of courage, commitment and leadership”.

E. Country analysis

In analysing the experiences of the Caribbean community and in identifying the various agreements aimed at promoting national consensus to address the key issues of competitiveness, labour productivity and quality, we intend to analyse these experiences at the National, Sectoral and Enterprise levels focussing on five selected CARICOM countries. Trinidad and Tobago, Barbados, Jamaica, Guyana and Grenada in the decades of the 1990’s. We also intend to examine the experiences of the other CARICOM member states in respect of any agreements arrived at the various institutional levels and aimed at addressing the many challenges faced by these states.

- Trinidad and Tobago national level

Trinidad and Tobago is committed to social dialogue as manifested in tripartism, which is an integral component of social dialogue. There are several tripartite committees operating to formulate and implement policies to address various social and economic issues. These include:

- The 144 Tripartite Committee on International Labour Standards.
- The Standing Tripartite Committee on Labour Matters.
- The Minimum Wages Board.
- The Non-Crises Committee in the Petroleum and certain other sectors.

The evidence would show that these Committees have been operating efficiently and have achieved considerable success in promoting tripartism, primarily due to the involvement of the three social partners on the Committees. While their commitment to the process has already been established, there
exist a problem of trust among the social partners, which ultimately hinder the success of tripartism in Trinidad and Tobago.

In view of the obvious paradigm shift in the world of work, given the application of new technologies to the production processes, both employers and workers are aware that emphasis on individual relations has shifted away from the traditional adversarial stance to a more consultative one. It is hoped that the genuine adoption of this new approach would lead to a genuine trust-based relationship.

In light of the social partner’s commitment to tripartism (even in the face of an element of mistrust logically), Trinidad and Tobago extend the scope of the tripartite relationship by entering into a formal social partnership agreement on October 31, 2000. The basis of this agreement is to prepare the country to be more competitive and productive. The agreement is titled “Compact 2000 and Beyond: Declaration of social partners to address social and economic issues.” This agreement was arrived at after a series of meetings over a two-year period involving the representatives of Government, business and labour.

It is yet too early to even attempt to objectively analyse the efficiency of this exercise. Suffice it to say that in spite of the mistrust and suspicions, an agreement has been signed. It does demonstrate the growing maturity of the social partners and the need to sink petty differences in the national interest. In order to effect the agreement and to honour it with the highest authority a Secretariat has been established in the office of the Prime Minister. Trinidad and Tobago has had a volatile, adversarial and confrontational industrial relations history. Hence the establishment of a legal framework to govern industrial relations as compared to a voluntaristic system of industrial relations in other CARICOM states.

Notwithstanding the formalisation of the agreement, there still exist mistrust and a lack of solidarity among members of the Trade Union Movement. This was manifested in a number of influential Trade Unions distancing themselves from the Compact 2000 Agreement. In fact, these Trade Unions have been highly critical of the Agreement/Declaration and have condemned it.

Experience has shown that one of the fundamentals for the implementation of any successful social partnership agreement, is that of consensus and trust. A lot of effort would be required to make the Compact 2000 an effective reality. There is a need for genuine commitment and co-operation on the part of the social partners if the objectives of the Compact are to be fully realised in the future. The challenges of globalisation and trade liberalisation demand the translation of the Compact 2000 and Beyond into an effective reality.

- **Enterprise level**

At the enterprise level, especially oil, gas and manufacturing, there have been some impressive social partnerships arrangements in Trinidad and Tobago. The practice of information sharing in these enterprises is worthy of note. There are many active Health and Safety Committees comprising of representatives of management, and the Trade Unions functioning in the same enterprises. These Committees have been established through the collective bargaining process since the current legislation governing Health and Safety does not make specific provisions for such Committees. Additionally, there is a specific policy in which a worker representative is entitled to effectively participate in the decision-making process at the level of the Board of Directors.

- **Barbados. National level**

This country represents one of the most advanced forms of social dialogue in the Caribbean Community. From all indication, Barbados has earned rich dividends from this national endeavour. The Barbados economy experienced a severe economic downturn in the early 1990’s which manifested in a severe shortfall in foreign exchange, an uncomfortable unemployment level (24% in 1992), negative economic growth (-3% in 1992), high debt service ratio and negative foreign investment. This situation led to the intervention of the various international financial institutions – the World Bank and the International Monetary Fund (IMF).
The IMF Stabilisation Programme was made up of the following elements:
- Devaluation.
- Reduction in government expenditure.
- Reduction in social benefits.
- Reduction in public sector employment.
- Reduction in severance and unemployment benefits.
- Privatisation of government enterprises and operations.

The Barbados Government rejected the devaluation and opted for a short 18-month programme inclusive of some of the above elements. In view of this crisis, the government accepted a proposal from the Trade Unions which called for:
- A reduction of 8% in wages and salaries in the public sector.
- A lay off of workers (approximately 10%).

It was also agreed that a tripartite approach should be pursued and the Unions offered to draft a Protocol that used social dialogue as a basis. This was accepted. What emerged was the first social partnership agreement in Barbados, entitled A Protocol for the Implementation of a Prices and Income Policy. This came into effect on August 24, 1993 and covered a two-year period, April 1993 to March 1995. The preamble to the Protocol stated:

“Acknowledging that the success of Barbados as a nation has been due, in large measure, to (b) peaceful and harmonious labour-management relations”.

The objectives of the Protocol were:
- The safeguarding of the existing parity of the Barbados dollar.
- The securing of economic growth through improved.
- Competitiveness.
- The restructuring of the economy.
- The promotion of productivity.

To achieve these objectives, appropriate policies were implemented, which led to the establishment of a National Productivity Board, a freeze on wages and salaries for a two-year period and the monitoring of prices. The first Protocol was successfully implemented even in the face of many difficulties. Barbados subsequently and successfully implemented two further Protocols covering the period 1995 – 1998 and 1998 to 2000.

The second Protocol continued a wages restraint policy among other elements. This Protocol achieved some measure of success, in that the economy continued on its progressive growth path and recorded increased growth rates.

The third Protocol (1998 to 2000) was negotiated against a favourable and improved economic climate. The major macro-economic indicators were positive and unemployment was at a mere 12%. This Protocol acknowledged the scope of social responsibility of the partners and their collective obligations to the society. The role of the social partners in employment formulation, training, the reduction of social disputes, public sector reform, crime and the treatment of the disabled were all incorporated.

The government’s collective responsibilities were clearly stated:
- To consult on the formulation and implementation of fundamental economic and social policies.
- To acknowledge its responsibilities as a model employer and to ensure that its agents act accordingly.
- To increase training and workers responsibility.
- To initiate policies to reform domestic capital markets and to provide small business enterprises with awards of contracts.

The employers and workers representatives also made some far-reaching commitments to the third Protocol.

The experience of Barbados therefore suggests that agreements can be reached at the national level, on issues such as wage policy, employment policy and social dialogue. It also demonstrates the importance of tripartism and the coming together of the government, labour and business, in order to ensure consensus and national development.

- Enterprise level

Apart from the three social protocols, which have characterised matured tripartism among the social partners, evidence of the collective and unified spirit has also been manifested in the various Women’s Committees such as the National Advisory Committee on Occupational Safety and Health.
(NACOSH), the Labour Market Information Advisory Committee (LIMIAC) and the Technical and Vocational Education and Training (TVET) Council.

At the bipartite level there is a commitment that exist which is characterised by an understanding of the basis of social partnerships, of mutual respect for the rights and interests, of a willingness to share projects equitably, and a willingness to provide productive labour to ensure the continued competitiveness and sustained viability of the enterprise. At the Enterprise level, there is a number of functioning safety and Health Committees which derive their status from the Factories Act, which provides for the establishment of Safety and Health Committees at the level of the Enterprise.

A culture of maturity and trust has been established in Barbados among the social partners, which has to some extent accounted for the responsible and less contentious industrial relations climate.

It is to be noted that the Industrial Relations system is largely voluntaristic and progress in national development is dependent on the maturity of the social partners. The Nation’s interest is placed first by the Trade Union Movement and the employers.

The concept of social dialogue as manifested in the three Protocols over the period outlined, has undoubtedly brought some degree of stability, growth and economic viability to the Barbadian economy. This has manifested itself in low levels of unemployment, low inflation rates, a comfortable fiscal deficit, increasing foreign investment and growing foreign exchange reserves.

- **Sustaining social dialogue**

At a National Tripartite Seminar on “Fostering Economic Development Through Social Partnership” held at the Sherbourne Conference Center in Barbados on April 18th to 19th, 2001, the social partners analysed and evaluated at great length, the value, problems and future solutions necessary to sustain the social partnership process in Barbados. Based on a study entitled “Fostering Economic Development Through Social Partnership in Barbados” by Mr. Jayo Fashayin, participants analysed the strengths and weaknesses of the partnerships, and the way forward.

Social dialogue evolved in Barbados against the background of grave economic crisis in the late 80’s and early 90’s. At the center of the crisis was an obviously unstable industrial relations system. Barbados has had a relatively peaceful and stable industrial relations system anchored in a framework of trust, cohesion and maturity. This was however threatened by the crises. Social dialogue ensued. The process of social dialogue has brought enormous gains to the people of Barbados.

Notwithstanding the tremendous progress recorded by the social partners within the social protocol framework, there is need to now develop a more structured approach to social dialogue.

Arising out of their deliberations, the social partners advanced a number of broad and specific recommendations aimed at strengthening the effectiveness and sustainability of the social partnership process. These include:
- Organisational strengthening of the social Partnership framework through the establishment of an organised Secretariat so as to assure the effective implementation of the agreements.
- Implementation of a broad based marketing and sensitisation programme aimed at educating various organisations, institutions, agencies or departments of government, as well as, workers and employers on the main tenets and provisions of the social partnership.
- Regular and sustained review of the social partnership process in order to ensure flexibility and adaptability in respect to the prevailing socio-economic conditions.
- Permanent inclusion of the Social Partners at International meetings and Conferences as well as meetings with International Financial Institutions.
- Inclusion of non-governmental organisations and other members of civil society in a structured and organised manner by the social partners.6

- **Jamaica. National level**

In Jamaica, the social partners meet regularly under the ILO 144 Tripartite
Committee and make representation to the government about conventions to be ratified and the general state of reporting and compliance. The three social partners are represented on several tripartite boards in various sectors of the economy. These include:
- Labour Advisory Council.
- Minimum Wage Advisory Commission.
- Jamaica Tourist Board.
- National Housing Trust.

Unfortunately, however, the formalisation of a national agreement continues to escape all three partners. A Draft Agreement was drawn up entitled “Draft Agreement for the Implementation of a National Economic and Social Understanding – Social Partnership 1996 to 1997”, but was never signed due to the mistrust and accusations regarding its lack of transparency and trade union rivalry.

- Sectoral level

The failed attempt at stabilising a formal national agreement has resulted in Memoranda of Understanding for various sections of the economy being signed. These include bauxite, banana, water and shipping. The Memorandum of Understanding which was signed by the social partners in 1998 and 1999, committed the parties to pursuing structures designed to achieve fundamental transformation in employment relations, strengthened all-round co-operation in the different industries and establishing a framework for consensus. For example, the Trade Unions in the Bauxite Sector agreed that once the government maintains macro-economic stability and the companies undertake the measures agreed upon in the memorandum (namely corporate responsibility, skills training and development, working with the unions to increase productivity, investment in plant and equipment, support for educational programmes aimed at sensitising the labour force to the importance of international competition in the bauxite/aluminum industry, disclosure of information on the company and industry) they would move towards restricting productivity linked wage increases. Gainsharing would be the main vehicle through which this would be accomplished.

As a result of this new approach, productivity has increased, costs have been contained, workers are benefiting, payments and the work force have been stabilised. It is the view of the other enterprises that with more open communication, transparency and trust building, they will also experience a similar turnaround in their establishments.

- Guyana. National level

Social dialogue is present at the enterprise level, at the industry level and at the national level through the process of collective bargaining. In addition, the ILO 144 Tripartite Committee functions and submits recommendations to government. Both the Guyana Trade Union Congress and the Consultation Association of Guyanese Industry Limited represent workers and employers respectively in state boards and thereby participate in the decision-making process of many key sectors.

The Guyana Trade Union Congress (GTUC) has been actively promoting social dialogue and social partnership, as the most effective approach to addressing the nation’s myriad problems. In this regard, the GTUC in collaboration with the ILO and CARICAD conducted a two-day Tripartite Meeting for the purpose of developing proposals for a “First Protocol for the Implementation of a Social Partnership – 2000”. The document which was modeled on the Barbados Social Partnership experience, was submitted to both the government and the employers with the request for the government to convene a meeting of the social partners.

The main issues addressed in the documents were:
- Good governance for sustained social and economic progress and political stability in the country.
- Collaboration of the social partners for confronting challenges and for achieving industrial measures.
- Tripartism.
- Joint Approach to the formation of policies.
- Mutual respect.
- Stable exchange rate.
- Restructuring the economy.
- Increased production.

The response on the part of the government has not as yet been positive. Indeed, given recent events in Guyana, it
would be difficult to say when such a social compact would be agreed to by all concerned.

- Grenada. The national level

The economic and financial situation confronting the Trade Union Movement in Grenada is extremely difficult, having regard to the social conditions brought about by both internal and external dynamics.

The virtual collapse of the banana industry (as a consequence of the dispute between the United States of America and Europe over the regime of bananas which the WTO ruled was in contravention of its rules of Free Trade) has led to a rise in unemployment and a consequent weakening of the collective bargaining power of Trade Unions.

The Grenada Trade Union Council is represented on some state corporations and, as such, became party to limited decisions of a national character. At the enterprise level, Collective Agreements provide for some limited consultation, particularly on issues like Safety and Health at the workplace.

In 1998, the government entered into discussions with the social partners and was able to develop a Memorandum of Understanding (MOU). This MOU was signed by the government, business and labour and the non-governmental organisations.

In the text of the Memorandum, the social partners agreed to the following:
1. The Tripartite Consultation Committee shall set up such sub-committees as may deemed necessary for the elaboration of its work and shall meet regularly to deliberate, formulate and issue reports.
2. The elements of the said consensus on National Development shall be:
   - The elaboration of a vision for National Development, i.e., the overall Macroeconomic and sectoral goals for Grenada in the short, medium and long terms.
   - A review and assessment of the state of the economy and the social sectors.
   - The identification of policies and programmes aimed at achieving the kind of national development consistent with the articulated vision.  

Notwithstanding, the frequency of meetings convened by the various Committees, it does not appear that the exercise is proving to be effective. Indeed, the employers and the Trade Unions are losing confidence with the process, since no meaningful and serious action has been taken by the government in respect of pertinent matters referred by its representative.

- St. Lucia

St. Lucia has recently (laid for comments) in Parliament, a Draft Labour Code. It is anticipated that this new legislation will become law before the end of the year. The formulation of the Draft Labour Code, which involves some 40 or more separate pieces of legislation and covering different areas of industrial relations and labour matters, had a participatory approach. Workers and their organisations, as well as, employers' organisations and members of the general public were consulted. It represented another example of social dialogue in the region.

While there is an agreed undertaking among the social partners for a codified and consolidated Labour Code, some issues remained without agreement, i.e., Termination of Employment Chapter of the Draft Labour Code.

The Draft Labour Code is comprised of twelve chapters. The main features of the Draft Labour Code are:
- Termination of Employment.
- Unfair Dismissal.
- Constructive Dismissal.
- Severance Pay.
- Severance Pay Fund.
- Coverage of Public Servants
- Non-Valid reasons for Dismissal.
- Determination of Dismissals by Labour Officers.
- Provisions on Equality.
- Maternity Leave and Benefits.
- Night Work and Women Workers.
- Child Labour.
- Occupational Safety and Health.
- Wages.
- Hours of Work.
- Vacation Leave.
- Special Provisions for Hotel Workers and other Seasonal Workers.
- Industrial Relations Framework.
- Trade Unions, Recognition and Representation.
- Bargaining in the Absence of a Majority Union.
- Dispute Resolution.

This New Code was drafted with assistance from the ILO.

In dealing with dispute settlement mechanisms, St. Lucia’s Ministry of Labour is the final point of reference. There is no social compact, but at times Tribunals are established to settle disputes.

**F. Analysis of machinery which seeks to cover participant sectors**

In principle, the CARICOM Community is committed to a process of tripartism and consultation with the social partners in order to address the many challenges of globalisation and labour market change. This is reflected in the Community’s “Declaration of Labour and Industrial Relations Principles” which was approved by the 13th Meeting of the Standing Committee of Ministers Responsible For Labour, 26th to 28th April, 1995.

From the outset, the Secretary General of CARICOM makes a case for social partnership and the rights and responsibilities of the social partners. The translation of this intention into reality remains elusive. Apart from the tentative efforts, (with the exception of Barbados) genuine social dialogue continues to elude the majority of the Community Member States. A history of adversarial relations has contributed to a sea of mistrust, suspicion and lack of confidence among the social partners. This in a 21st century world that is undergoing profound transformation. The basis of global change is rooted in new technologies, new forms of economic and political organisation in many nation states, increased liberalisation of global trade, and the critical imperative to ensure that development is sustainable.

The consequences for the CARICOM Community are increased competition on both domestic and overseas markets.

A recent survey involving both national employers and workers organisation in the subregion offers perspectives on the possibility and scope for tripartite consultation and negotiation at the national level. The study was designed to assess the perspectives of the social partners on the state of industrial relations in the various countries, prospects for effective social dialogue and the state of the intro and inter-relationships. The survey found a strong element of volatility at the industrial relations level. However, bipartite relationships seem to be functioning reasonably well. There appears to be some degree of disunity among indigenous and foreign owned businesses, which, ultimately, affects the level of coherence and coordination of policy and activity at the national and regional levels.

The study also found that tripartite consultation and even negotiation existed in many countries. Both employers and Trade Unions admitted to being consulted by governments on issues such as public sector reform(s), social security and taxation and labour legislation. However, there was less consultation on issues such as industrial, employment and national economic policies.

On the prospects of developing a national tripartite economic and social consensus among the social partners, four of the employer organisations responded in the “very good” category, while two thought the prospects as being “good”, with the final group responding that the prospects were “poor”.

On the Trade Union level, none of the National Trade Union Centers, except Barbados, thought the prospects of developing such a tripartite compact as being “very good”, though three of the Centers thought the prospects as being “good”. Most National Trade Union Centers still appear to favor sectoral negotiations with employers.

The author of the survey concluded that the relatively less enthusiasm support of the Trade Union Centers:

“probably reflects the inherent tendency in some trade union circles of a certain degree of caution or skepticism in regard to such economic and social pacts or possibly the unquoted view that governments or employers only seek agreements in difficult times rather than times of economic boom”.

This perception touches on the relevance of a social partnership as a suitable mechanism for promoting employment opportunities, economic growth and achieving sustainable development and proper governance. Appropriate measures should be taken especially by governments to avoid the
perception of ad-hoc tripartite initiatives. Notwithstanding the suspicion among key social actors towards the promotion of social dialogue, there appears to be consensus on its efficiency for the entire society not only in the promotion of a more stable Industrial Relations climate, but also in accomplishing wider consensus on national economic and social objectives.

From the available evidence, it is now clear that a minimum level of national consensus or understanding is required within and among the parties on the nature of the issues for joint resolution; on the desirability of a strategic alliance for a collective response to globalisation and trade liberalisation; and on the impact of these on social and economic development. It also means that a minimum level of internal units and cohesion among the respective partners is needed in order to have a sustainable social partnership.

Social dialogue in the Caribbean Community seems to have had its greatest success in Barbados so far. Tentative and positive prospects appear reasonable in other Community member states. Nevertheless, the culture of dialogue remains comparatively higher at both the sectoral and enterprise level, manifested in bipartite negotiation and consultation for at least the foreseeable future.

G. Alternative tools on conflict resolution in CARICOM

The industrial relations system in the Caribbean Community is largely voluntaristic with the exception of a few countries including Trinidad and Tobago and Jamaica, where a broad legal framework has been established to resolve disputes or conflicts at certain levels. It is against this scenario that alternative tools on conflict resolution in CARICOM should be assessed and analysed. Alternative conflict resolution essentially means an alternative to litigation. And negotiation is the most common and, when skillfully practiced, the most effective alternative to litigation in the Caribbean Community. Conflicts can provide opportunities for growth and change, while preventing unnecessary conflicts can save both time and money. Avoiding a conflict may also prevent a relationship from being damaged. In the Caribbean Community, there is a need for conflict resolution training. This training would provide relevant persons with the appropriate skills to avoid unnecessary conflicts.

Alternative conflict resolution refers to processes for resolving disputes other than litigation. Conflict resolution processes could also be analysed from the perspective of the level of control the disputants to the conflict have over the process. We shall now discuss some of these tools.

- Negotiation

One of the most common and effective alternatives to litigation in the Caribbean is negotiation. Negotiation is any form of communication between two or more people for the purpose of arriving at a mutually agreeable solution. In negotiations, the parties to the conflict may represent themselves or may be represented by their agents. The key is that the parties involved in the negotiation maintain control over the negotiation process.

There are two styles of negotiation - competitive bargaining and co-operative bargaining:

a) Competitive negotiations are concerned with substantive results and, consequently, would employ extreme tactics to achieve ultimate objectives.

b) Co-operation negotiations develop a relationship based on trust and cooperation.

Negotiations in the Caribbean community are manifested through a mechanism/device called collective bargaining in industrial relations. Negotiations as practiced in the Caribbean are the most popular alternative to litigation. It is also the most successful.

- Mediation

This practice is not as common and widespread as negotiation in the Caribbean Community. Mediation is a non-binding process in which an impartial third party, the Mediator, facilitates the negotiation process between the parties or disputants. The Mediator in this process does not possess any decision-making power and, as such, the parties to the conflict maintain control over the substantive outcome of the mediation. The Mediator controls the process with the support of the parties, and with the consent of the
parties set and enforce ground rules for the process.

Mediation can be interest based or rights based.
a) Interest based mediation allows the Mediator to facilitate communication between the parties and encourages the parties to focus on their interests.
b) Rights based or evaluative mediation allows the Mediator to provide an opinion on the parties legal rights and seeks to encourage a resolution of the conflict in accordance with the law.

- Conciliation

The promotion of a stable industrial relations climate is of critical importance to economic growth and, overall, national development. Hence the vital role of Ministries of Labour and Departments to ensure that appropriate mechanisms are in place to assist employers and workers to settle their trade disputes. It is within that broad framework that crucial conciliation services are provided, free of cost, to the various parties who are encouraged to fully utilise these services.

- Arbitration

Arbitration is a process in which a third party renders neutral a decision based on the merits of the case. In some jurisdictions, the scope of and rules for the arbitration process are set out by statute, while in others, the party’s work together to design an arbitration process that is relevant to their conflict. The decision of an Arbitrator may be advisory, but in most instances, the decision is binding.

Arbitration is utilised within a legal framework in many Caribbean Community nations. Since conflict resolution processes, including litigation, can span along a wide spectrum of possibilities, it is necessary to analyse other forms, employed within the legal framework, to resolve conflicts. In attempting to resolve conflicts in the Caribbean Community, the legal framework is also employed. For instance, while most Caribbean Countries possess a voluntary system of industrial relations practice, Trinidad and Tobago, Jamaica, Antigua and Barbuda have established some form of legal framework to address many disputes/conflicts.

In Trinidad and Tobago, exists an Industrial Relations Act with clearly outlined procedures and processes for resolving and settling conflicts and/or disputes. Resolving disputes at the level of the Court could take the forms of arbitration and open hearing. The Court’s decision is final and binding, and parties to any conflict/dispute can only appeal to the High Court on a point of law. Appeals can also be transmitted as far as to the Judicial Committee of the Privy Council.

- Establishment of a dispute centre

The Trinidad and Tobago Chamber of Industry and Commerce has established a Dispute Resolution Center. This is a form of mediation. However, it does not possess the necessary independence and credibility needed to establish its legitimacy, in light of the fact that it is viewed as an employer initiative and would serve only in the employer’s interest.

Competitiveness is rooted in the capacity of nations to achieve and maintain basic consensus which demand a continuing investment in social dialogue and the commitment to explore new approaches in an effort to ensure an established modern, participatory and harmonious industrial relations. This has been the experience of the Caribbean nations. There is no doubt that there have been experiments in the field of alternative conflict resolution procedures. The success rate, however, has been mixed. Trinidad and Tobago stands out as a pioneer in the field of alternative dispute resolution.

For some 35 years, Trinidad and Tobago has established an alternative system to litigation. This system involves negotiation, conciliation, arbitration, pre-trial discussions and trial/open hearing. Tightening of the administrative machinery to ensure greater levels of efficiency, competency and institutional capacity is required to further
enhance the Trinidad and Tobago system of alternative dispute resolution. There is also need for an improvement in the quality and quantity of personnel.

**H. Conflict self resolution. Different approaches**

Quite apart from the formal mechanisms for resolving disputes/conflicts without resorting to direct litigation, the Caribbean Community has utilised a number of other means/devices aimed at self-resolution of conflict. Conflict is an inherent human condition, which is inevitable in any civilisation. As such, appropriate means have to be located to address those conflicts when they arise. In enterprises and industrial sectors where there is an absence of Trade Union representation, informal associations and organisation are developed by the parties to address the concerns of the workforce.

In this context, we have had a proliferation of Internal Committees being established and actively supported by employers and Management. This is specially pronounced in areas where there is a legal position. The establishment of these Internal Committees and/or management sponsored organisations serve to assist in resolving many difficult situations. Appropriate mechanisms are devised to resolve critical issues of concern to the parties in question. A good example of this is the case of the Central Bank of Trinidad and Tobago. For this organisation, the negotiation process took place (for years) by a staff association which represented workers on issues of wages and working conditions.

Self-resolution, which can vary, given the prevailing conditions at that time, is aimed at resolving internal issues without the necessary intervention of a third party.

In the Public Service of Trinidad and Tobago, a particular mechanism has been devised to address the internal concerns by management and workers without the intervention of a third party. It is known as the Joint Consultative Committees (JCC). These Committees function in the context of enhancing relations between the parties and work towards a better understanding of a number of common issues. There are similar committees in Jamaica. In the private sector, and especially where there are no Trade Unions, internal Staff Committees exist to resolve issues between the parties.

At a number of institutions and organisations, mechanisms have been developed to ensure not only a sense of participation by workers in the development of an organisation, but also a sense of ownership. Hence the development of Employees Stock Ownership Plans. These Plans are designed to provide workers with a sense of identification and belonging.

Employees also utilise mechanisms such as market surveys to determine on a comparative basis the relative terms and conditions of employment that ought to be enjoyed by their employees.

**Conclusions**

Industrial Relations vary significantly in the Caribbean. However, most would agree that it is largely contentious. Indeed, the Caribbean as a whole is reputed to have some of the highest rates in the world of disputes and work stoppages.

The promotion of social dialogue and the search for alternative dispute resolution procedures to avoid litigation and its manifest consequences for the economic and social development of the Caribbean Community, cannot be underestimated or overly emphasised.

Apart from their importance in the context of modern democratic governance and the requirement and imperative of participation by the various social partners in the quality of decision-making, these critical tools are vital if the Region is to confront the challenges and overcome the threats of globalisation and Trade Liberalisation.

It is clear that these issues are inextricably linked to competitiveness in the global market place and the very survival of the Caribbean Community.

The Caribbean Community has little choice but to vigorously promote social dialogue and alternative conflict dispute procedures if it is to achieve unity, stability and harmony in the industrial relations arena.

Some of the challenges that could be addressed within such a framework are the
need for urgent labour market reforms. Labour market reforms within a national development strategy framework is critical for improvement in labour productivity. Labour market issues must be addressed from both the demand and supply side. Social dialogue should address issues such as the lack of adequate economic diversification, poor and slow growth rates, high labour cost, labour market rigidity, inadequate infrastructure, declining public sector employment, low productivity of workers, low skill levels, lack of a well trained labour force, the brain drain and a poor work ethic.

The existence of high unemployment rates in many parts of the region, particularly among the youth and women, coupled with a growing trend towards the casualization of labour (manifested in the existence of temporary, part-time and contracting and home work employment, as well as home work), if not addressed within a social dialogue framework will negatively affect competitiveness and endanger the region's long term growth.

Labour productivity has to be improved through the development of appropriate policies and programmes and the social partners must unite to achieve this. Collective bargaining agreements in the context of the current industrial relations systems, offers determined wage settlement levels. In an era of global competitiveness, wages and salaries ought to be linked to productivity. Productivity is not only essential for business success, but is ultimately vital for workers, job opportunities and employment security. The poor work ethic also has to be addressed within the social dialogue framework.

These are major issues that the Caribbean Community cannot escape and avoid if it is to enjoy sustainable growth and development in the future for the working people as a whole. Social dialogue properly and sensibly promoted and incorporated in the national policy framework of the Community could be the vital tool needed to rescue these economies from permanent economic catastrophe.

It is clear that the main task facing the Caribbean Community is to sustain a high level of economic growth and productivity in a period of mind boggling, technological development and rapidly changing market conditions. Social dialogue in a national policy framework would not only address this challenge but, ultimately, help overcome it.

Notes

1 Fukuyama, F. 1998 Trust, the social virtues and creed of prosperity (Simon and Shuster Inc.) pp. 6-7.
2 Mulvey, K. 2000 Report on social dialogue in the wider Caribbean in the context of decentralized cooperation, “ILO-EU Meeting” (Port of Spain).
3 Greaves, E.E. Social Dialogue in selected countries in the Caribbean: An overview.
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Section V

ON THE ROAD TO HEMISPHERIC INTEGRATION:
THE LABOUR AGENDA

Verónica Oxman*

Introduction

This paper was prepared in the context of the Preparatory Meeting of CARICOM Labour Officials for the Upcoming Ottawa Conference of Labour Ministers to be held in October 2001, it’s main purpose is to enhance the importance of considering the labour and social dimensions in the hemispheric integration process of the Americas.

During the last three decades, a worldwide process of economic integration led by trade, along with great developments in the communication area through a swift incorporation of information technology (IT), and increasingly fast transportation systems in the global economy have affected all areas of people’s lives including politics, employment, local cultures and social issues.

These new processes being experienced at a planetary level, particularly the process known as economic globalization, have had vast consequences at the labour and social levels. As was pointed out at the 1998 XI Inter-American Conference of Labour Ministers of the OAS meeting in Viña del Mar - Chile: “the globalization of Latin American and Caribbean economies is underway in a context of both economic integration strategies and multilateral agreed upon openness”. The Conference also acknowledged that this process was running parallel to structural adjustments and to two phenomena affecting labour that had to be taken into account: privatization and deregulation.

Three years later, globalization needs to be considered as a multidimensional process, impacting not only on politics and the economy, but mainly people’s daily lives. We are living in a world where economic and political integration processes are not ‘natural’ and do not occur ‘automatically’. On the contrary, experience shows that the willingness of the countries, the governments and the States to participate, along with the conviction that integration will have positive repercussions, are crucial for these same processes to occur. The belief that integration is having or will have a beneficial impact on the overall population in the different countries, is the main engine for any possible integration agreement to be achieved between countries characterized by very diverse realities.

Many authors (Greiner, 1997; Muller, 1996; Dahrendorf., 1996) have put forth a question mark on the ‘weight of the nation-state’ in the context of today’s globalization, implying that the State has lost influence and power in the hands of multinational capitalism and production mobility.

Generally speaking, the debate on integration has been conducted within the theoretical dispute on the globalization of the economy and the role of the State in economic decision-making. On one hand, globalization has increased the need for regional economic integration; on the other, the role of the State is crucial in determining how these integration processes will be conceived and how they will consider the participation of the social actors in the definition of life quality expectations for the overall population, including working conditions and employment opportunities in each country.

Currently, we can distinguish between two ideal models of integration that anticipate the risks and opportunities in any economic integration process. The competitive-liberal model, which endorses the importance of

economic factors; the important role of the markets and the generation of policies to regulate competitiveness; and the structural-harmonization model with an emphasis on the political and social factors, the active role of the State and the development of active public policy to regulate and support the private sector (Klein, 2000). One view proclaims that in due course the State will lose control over the economic and social decision-making processes and the other proclaims that economic integration challenges the States in order to improve their efficiency and effectiveness; i.e., to improve overall State management. In any case, both arguments are positive in relation to regional integration.

Again, the perspective that accounts for the erosion of the State holds that the counterpart of this situation is necessarily a strong political cooperation at the international level (global governance). Then, regional integration appears as a solution, since it would be easier to achieve political agreements among a small number of countries rather than with the world as a whole.

At the same time, the space of integration would not replace the nation-state, playing instead a complementary role in those areas that a single State would not easily control single-handed. This would imply the creation of shared sovereignties between national and regional political organizations. The second perspective holds that regional integration would be beneficial only if each country improves its capacity to compete in the international markets. In a regional space this could occur by developing scale economies (lowering production costs), overcoming existing indivisibilities (high infrastructure and technological investments), and could also mean the growth of bargaining power for the region in front of other economic regional groups.

Zimmerling defines integration as “a process by which a group of States get together on a voluntary basis to create or develop common institutions enabling them to make predictions to feed decision-making processes, or accumulate political decision making attributions at the national level”. In any case, it implies giving up a portion of national sovereignty, regardless of economic or political integration, in order to achieve other economic and political benefits derived from integration.

A. Integration and the changes in employment and labour

Some experts (Feenstra, 2000; Krugman, 1996; Bhagwati & Dehejia, 1994) have argued that the rising integration of world markets has brought the disintegration of a production process where manufactured goods or services made abroad are combined with those made in any particular country. Corporations have found it profitable to outsource increasing amounts of the production processes, either domestically or abroad. Therefore, production is increasingly turning into an international process. These developments have breakdown the vertically integrated “fordist” mode of production, since corporations shift locations quickly depending on market conditions and the availability of labour. This is possible partly because of the falling costs of transportation and trade liberalization. These experts have considered this process as the equivalent to the changes induced by technological innovation.

A major aspect of this process is the incorporation of labour standards into the debate, mainly as a result of capital mobility. This is why any particular corporation can take advantage of regulatory or trade policies in a foreign country by simply moving or subcontracting a firm located overseas. These decisions certainly have an impact on domestic companies, resulting in different impacts on skilled and unskilled workers at the local level.

Generally, enterprises located in developed countries will look for large amounts of unskilled workers in less developed countries to assemble components and other repetitive tasks. This new mode of production will reduce the relative demand for unskilled labour in developed countries, as much as automation replaces labour. Therefore, trade as well as technological advances plays an important role in the new economy. Outsourcing has increased enormously during the last decade, in particular due to growing progress in the area of communication technology and the swift
manner in which product quality and design can be monitored, thanks to the massive use of computers.

The impact of globalization on the wages of skilled and unskilled workers is hard to measure. Therefore we need to accept that trade and information technology partially explain the rising wage differentials between workers in developed and developing countries. This is related also to the fact that production differs greatly from developed to developing countries. For instance, a piece of work performed by unskilled workers in a developed country, might be considered highly skilled work in a developing country. Moving these activities from one country to the other raises the average skill-intensity of production in both locations (Feenstra & Hanson, 1996).

The current issue is how to protect individuals or enterprises from import competition? Or how to protect people from undue losses as a result of international trade? This is mainly to ensure that low skilled workers do not suffer from the negative effects of the globalization processes in any particular country. If local labour legislations cannot ensure a minimum protection for workers, the countries need to look out for other ways of compensation.

Some developed countries have generated specific compensatory mechanisms to protect workers who are laid off due to imports competition. These devices may consist in monetary compensations, but usually they are mostly responses related to retraining or relocating workers in other industrial sectors of the economy. The question of whether trade policy has any role to play in protecting the interests of labour is still unanswered.

In this context, the labour issue in the Americas emerges in two dimensions. The first one is an outcome of the globalization and adjustment processes that have a negative short-term effect on employment, wages, labour relations and the scope of the coverage of social protection systems. This is mainly due to an expansion of export activities that have created a decline of employment in those sectors that produce goods exposed to competition from imported goods. This forces labour policy to compensate the most vulnerable groups to the adjustment and create a new balance between economic efficiency and social progress. The second dimension surfaces as an important part of adjusting to the new conditions derived from the process of globalization, which demands greater flexibility from the labour market. This feature in particular led to the reduction of public employment through the privatization of State owned enterprises and the establishment of new types of labour relations that include mainly contracting, subcontracting, and fixed term contracts, altering the composition of waged employment (Martínez, 1998).

Even though the debate is not over, some impacts of trade openness and economic integration on the labour market can be identified. An analysis carried out by the ILO in some countries of this region in regards to the evolution of employment, productivity and wages after the economic opening, disclosed that their respective markets followed similar behavioral patterns (Camargo et all, 1998).

The overall tendency in the Americas has been a planned downsizing of the State, triggering an inevitable drop of public employment and the declining role of the State as an employer of first resort. Shrinking public employment has been recorded, particularly in non-central government structures, throughout the 1990-1998 period. The share of public employment in total employment in the region decreased from 15.3% in 1990 to 13% in 1998. Total employment (public and private) has expanded at a rate that is lower than the rate of the labour supply, leading unemployment up to an average rate of 8.9% in the year 2000 (ILO, 2001).

There is an increase of employment in the private sector, especially in the non-tradeable and export sectors, which have performed as weak counterparts for the decline of employment in the tradable sectors that are competing with imported goods. However, growing employment in the non-tradeable sectors was mainly based on new, poor quality jobs in the informal sector. Moreover, the drop of employment in the tradable sectors competing with imports would have been greater if the fall of employment in medium- and large-sized enterprises had not been partially compensated by an expansion of employment in small and micro-enterprises (Martínez, 1998).

As we argued before, there has been an increase of low-skilled private employment and fixed-term contracts in the region. Besides
declining in the tradeable sectors, private employment has also become more precarious in micro- and small-sized enterprises, and in medium- and large-sized enterprises (op cit).

As far as wages are concerned, the gap widened, instead of narrowing down. This was due to a greater rise in real wages among higher qualified workers, especially in the tradable sectors, where employment levels dropped the most. Nevertheless, some American countries show real income improvements, even though informality increased in urban labour markets during the 1990s, with some convergence between men and women in this respect (ILO, 2001). Traditionally, women were the major pool of labour in the informal sector, which is characterized by low wages, no access to social protection and tasks requiring low skills or no skills at all. Currently, as a result of increased unemployment, more men are working in the informal sector, thus reducing the availability of jobs for unskilled women.

At the same time, labour productivity rose significantly in the tradable sectors, but not as much as in the non-tradeable sectors. Improved productivity in the tradable sectors is due to the expansion of production, as well as to cut of unemployment and currency devaluation. There are, nevertheless, positive features. The most outstanding of them is, without a doubt, the relative rebound of purchasing power resulting from low inflation, which together with rising employment of low skilled labour in the non-tradeable and export sectors, explain the alleviation of poverty in some countries of the region (Martinez, 1998).

Yet, recurrent unstable and insecure labour is still present in several countries. Currently, the majority of the workers are not secure in long term jobs, unemployment periods last longer and there is more long term unemployment that in the past years, and the majority of countries lack social protection systems to support unemployed workers and their families.

Other aspects that need to be considered are related to the growing inequity among the working population in areas such as gender, productivity, income, labour protection, social security and bargaining capacities in particular. Decreasing unionization in the majority of the countries, coupled with larger numbers of workers who toil under new types of contracts that are left out of the bargaining processes, must be taken into account as some of the main challenges being faced by workers, employers and governments in the labour agenda.

One of the responses that are currently debated is the harmonization of trade regulations affecting labour and the environment at the international level. One of the examples is the Labour Side-Agreement negotiated under the North American Free Trade Agreement (NAFTA) and ratified by the United States, Canada and Mexico; a second one is the Labour Cooperation Agreement negotiated under the Canada-Chile Free Trade Agreement, and yet another is constituted by the labour and social dimensions of the MERCOSUR targeted by Group 10, (where Chile and Bolivia participate at associates), and ratified by Argentina, Brazil, Paraguay and Uruguay.

These agreements do not interfere with national labour legislations, do not impinge on national sovereignty and are designed to protect workers in the different countries, since they do not change existing labour laws in the different countries, having only the purpose of improving the enforcement of labour standards on safety and occupation health, child labour and minimum wages, among other subjects.

The majority of these labour agreements have established mechanisms to monitor the enforcement of national labour laws, with the intervention of representatives of the member states. If one country believes that another member fails to comply with its own national laws, the former can file a complaint to the established mechanisms consisting in specialized organs to settle disputes through consultation and cooperation. Up until now very few complaints have been made under all of the agreements operating within the Americas.

B. Regional integration agreements

Worldwide integration has taken the form of Sub Regional pacts and agreements. The European Union (EU), which is the oldest, largest, and most successful integration pact is a permanent reference for all regions
intending to develop economic integration or cooperation agreements.

When the European Community was established, its aim was political in order to ensure peace between European countries after the devastation of the two world wars of the twentieth century. After a period of relative stagnation during the 1970s, in the 1980s the EU showed its capacity by increasing the number of member countries - incorporating Spain and Portugal - and by deepening the integration process through the creation of the common market, European institutions such as the EU Parliament and more recently the introduction of a common currency, the euro, which should be in place in all European countries by January of 2002.

The EU has shown that the differences and inequalities between larger and smaller members, richer and poorer economies, between industrialized and agricultural countries are barriers that can be overcome along the road towards a major political and economical integration. The European Community Charter endorsed in 1989 seeks social order. To this end, it includes programs of cooperation and training to generate employment and reduce regional differences. It facilitates the mobility of workers from one country to another and harmonizes labour relations, collective bargaining and job classification. It covers twelve categories of rights; the basic five are already included in the GSP and furthermore ads the right of freedom of movement, harmonization of working conditions, social protection in accordance to each country, safety and health protection, training for all, full integration of the disabled and consultation with the workers. It is basically a declaration that the members adhere to voluntarily, does not contain sanctions and sets guidelines of a general nature (Martínez, 1998). Even though, the European Union experience is a permanent reference for any integration analysis, we will focus on the integration processes of the Americas.

In Latin America countries, integration has been an accelerated process, accomplished by developing multilateral strategies, starting in the GATT Round of Uruguay and the incorporation of most countries to the World Trade Organization (WTO). All this constituted a commitment to the promotion of free trade, lowering of barriers and improving access to world markets.

At the same time, some countries have developed strong strategies related to the unilateral reduction of tariffs, unprecedented in economic history. Currently, tariff ranges have shrunk to a minimum compared to the beginning of the process in the eighties. There has been an intense development of bilateral agreements on free trade; this process appears to be ongoing, since more and more countries develop bilateral strategies for tariff reductions, the exchange of goods is increasing and is strongly supported by the different countries. Finally, there have been also a number of multi-country integration agreements that need to be considered, because they constitute a strong basis for any project to developing a larger agreement within the American region.

The current most important multi-country agreements in the region are: the North American Free Trade Agreement (NAFTA), the Common Market of the South (MERCOSUR), the Andean Community of Nations, the Central-American Common Market and the Caribbean Community and Common Market (CARICOM).

The North American Agreement on Labour Cooperation –NAALC, or Complementary protocol (labour and environment) of NAFTA emphasizes the mechanisms of consultation and cooperation between the contracting parties, under the assumption that there exists a shared objective of social progress and that this consensus on trade expansion would not be based on the exploitation of workers. The other assumption, based on the actual reality, is that the fundamental principles are already included in the national legislation of the three countries, while the degree of compliance varies according to the level of development of the countries and is not due to any deliberate action to evade them (Martínez, 1998).

The MERCOSUR was established ten years ago in South America (1991) by Argentina, Brazil, Paraguay and Uruguay. More than 200 million people and a GDP estimated at that time in one thousand million dollars per year, made it become the largest integration group in Latin America and the southern hemisphere. It’s main objective was economic, based on the need to overcome the
economic crisis that affected the region during the 1980’s. In the nineties, MERCOSUR led the direct foreign investments (14.7% in 1995) among developing countries, including Malaysia, Korea, Thailand and Indonesia (13.8% in the same year). This prosperity was strongly affected by the 1997 Asian Crisis of 1997 and even more strongly in the last few by the on going crisis in Argentina.

Nevertheless, our interest lays in the way that MERCOSUR has addressed the labour and social dimensions of integration, as well as the incorporation of the social actors into the process. A sub-commission of Subgroup II examined the question of harmonizing labour, social security, wages and employment. The methodology adopted by said Group was to select 21 ILO Conventions and promote ratification of the same by the four member countries of MERCOSUR, in order to create a common doctrine. On the other hand, the workers in the MERCOSUR countries have proposed an extensive social charter, based on European models, but to date it has not been accepted by the governments. In July of 1998, Subgroup 10 initiated a debate on a possible agreement on individual and collective worker in the sub-region that includes, in part, the contents of the charter put forward by the workers (Martinez, 1998).

Andean Community of Nations (CAN), is a sub regional organization with the following member countries: Bolivia, Colombia, Ecuador, Peru and Venezuela, and constituted by the institutions and organs of the Andean Integration System. Located in South America, it embraces a total population of 113 million with a GDP of 270 million dollars in the year 2000. The main objectives of CAN are: to promote an equilibrated and harmonious development with equity between its member countries, accelerate growth through integration and social and economic cooperation, promote participation in the regional integration process, to develop gradually the formation of a Latin American Common Market and improve the quality life of the people on a sustained basis.

From the labour perspective, CAN has developed a Social Agenda, whereby the Ministers of Labour of the Andean Community have received the mandate to develop actions for coordinating policies in five social and labour areas considered as the most important for the sub-region: Employment promotion; labour training and formation; safety and occupational health; social protection and labour migration. In the year 2000, the Advisory Council of Ministers of Labour was created in Lima to analyze in depth the proposals to enforce the mandates on social and labour issues. CAN members have decided to act as one voice in the negotiations for a Free Trade Agreement of the Americas (FTAA).

The Caribbean Community and Common Market - CARICOM, embraces the following Caribbean countries: Antigua & Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts-Nevis, Saint Lucia, St Vincent & The Grenadines, Suriname and Trinidad & Tobago. The integration process experienced by these countries reflects their capacity to develop a stage-by-stage strategy to become a free trade zone. One of the most important achievements of CARICOM is the acknowledgement that small economies suffer from endemic vulnerability and that coordinated responses are the key answer to strengthen the competitive capacities of the local industries and at the same time a crucial tool for developing joint policies at the economic and social levels. One major achievement has been the adoption of common guidelines to design, adopt and implement a multi-annual plan for the development of a Labour Market Information System in the Caribbean sub region.

An example of bilateral agreements on free trade is the Canada - Chile Free Trade Agreement ratified in 1997. At the same time, both countries agreed upon a Labour Cooperation Agreement (ALCC). The ALCC established certain principles, objectives, institutions and initiatives in order to avoid social dumping and to promote labour fundamental principles and rights fundamental principles and rights of workers. With a similar structure of the complimentary labour agreement - NAALC within NAFTA, the ALCC was put in place in 1998. Executive Secretaries were named in both countries and both countries have been developing yearly activities, based on bilateral seminars and conferences held in Chile and Canada. For Chile this was the first agreement of this kind in the context of a free trade agreement; it
establishes the commitment to comply with each countries’ labour legislations that have been considered as appropriate minimum labour standards. That requires full enforcement of the law in both countries. The enforcement machinery promotes labour rights, labour inspection and administration, jurisdictional control, and social control through the unions and employers organizations. Social participation facilitates compliance with ALCC. Within the Chile-Canada FTA, the ALCC seeks to avoid social dumping, ensure transparency and fair competition founded on basic labour rights.

Currently, a novel multi-country scheme, the "Free Trade Area of the Americas" is being developed. This scheme, which embraces the whole Region, was approved at the Miami Presidential Summit of December 1994, and ratified at the Second Presidential Summit held in Santiago in 1998. At the III Summit held at Quebec City, the Heads of State established February of 2005 as the deadline for negotiations.

C. The Labour Agenda

As we have mentioned earlier, the debate on labour and trade was initiated at the "Uruguay Round" of the GATT agreements (1994). Since then, much headway has been done, number of advances have been made, proving that there exists a strong political commitment on the part of the governments to make economic development and social and labour issues part of a coherent agenda. During the Social Summit in 1995 and the Meeting of Trade Ministers in 1996, the countries moved ahead to ratify the commitment to create employment in a framework respectful of the fundamental labour principles and rights and the mandate of the ILO to monitor and promote compliance.

The fact that most of the American countries are ILO members has facilitated the operation of some basic agreements during the recent years. One of the most important, as stated by Martínez in 1998, was to postpone indefinitely the broaching of a "social clause" that links trade sanctions to the violation of labour rights; non-expansion of trade based on the violation of fundamental workers' rights; and the non-equalization of wages and labour conditions among countries that are at different stages of development.

Respect for the diversity of conditions that characterize the realities encountered within the Americas is one of the most valuable aspects of these agreements. This was possible thanks to the understanding that the countries would develop policies and incorporate measures according to their particular realities and that no country would have the right to impose upon others.

After these consensuses were reached, the next step was the definition of the fundamental workers' rights, corresponding to the principles of freedom of association and collective bargaining, the prohibition of forced work, progressive eradication of child labour and non-discrimination, all of which are included in the basic ILO Conventions. As a result, ILO constituents adopted, during the International Labour Conference held in June 1998, a "Declaration on Fundamental Principles and Rights at the workplace and their monitoring", which constitutes the major set of international guidelines on labour issues, ratified also at the Quebec Summit this year.

From the labour institutions, particularly within the XI Inter-American Conference of Labour Ministers of the OAS in 1998, a dual commitment was made. On one hand the American States committed themselves to promote and enforce the 1998 ILO Declaration; and on the other, the ILO committed itself to assist them in this task by a variety of means, including technical cooperation. This has been a permanent task for the last three years, the major achievements have been shown in the reports elaborated by the Presidency Pro Tempore ICLM (held by Chile), as well as in the reports prepared by the two Working Groups within the ICLM.

The analysis of the Labour Agenda for the years to come, needs to be done in relation to the issues that were raised in 1998; this is important in order to evaluate progress, delays and pending challenges.

The main challenge defined at the time was the need to create mechanisms to ensure that the expansion of trade would go hand in hand with social progress. As we have seen previously, depending on the processes or models of integration that have been
developed in the region, a diversity of mechanisms have been put in place. This has been possible due to the increasing recognition that integration to the world economy restricts the capacity of each country to implement economic policies in an autonomous fashion. External conditions become key factors in the design and application of economic policies. This is clearly so in relation to employment, migrant workers and wage policies (Martínez, 1998).

In a long-term process, the enclosed economies of the past – where decisions were made autonomously and employment depended on the ups and downs of internal demand and public expenditure-, have given way to high competitiveness and growth through trade, which have become the most important motor for the economies. This has implied the need for developing innovative employment and wage policies, particularly in the areas of labour training that allow the generation of new skills, lowering production costs and introducing new technologies. During these years, the issue of supporting workers through training has been one of the major elements in the labour agenda; i.e. the development of human resources as a means to ensure a positive development of the enterprises and the ability to compete in the world markets.

Nevertheless, wage policies have been left behind; it has been extremely difficult to introduce the idea that a correlation between wage readjustments and variations in productivity are needed in the context of the new economy, particularly in the developing countries. This is due mainly to the lack of institutionalized mechanisms for collective bargaining, especially when we are looking at inter-enterprise relations. Up until now, even though labour training has increased in most countries of the Americas, we are far from being able to assure that flexibility has a positive impact on wages. On the contrary, we observe strong resistances to improving wages after the completion of training programs. Besides, we have not observed a linkage between productivity growth and wages in accordance with results (profit sharing).

This resistance is stronger in developing countries where employers still don’t acknowledge the importance of wage increases as a means to promote consumption and thus economic growth. There are some cases where industries and enterprises have established promotional models. Some of them belong to transnational enterprises where human resources policies are being implemented. Unfortunately, these models of labour organization based on best practices are still the exception.

In most countries we observe a greater differentiation between what we can consider ‘progressive’ sectors of the economy, namely based on high labour standards, information technology and high productivity, and “backward” sectors, namely the informal sector or precarious urban labour and the agricultural sector. The issue of a major formality of the labour markets is still one of the main challenges in the Americas. This implies to continue to develop labour policies targeting the most vulnerable groups of the population, and particularly long term unemployed workers, unskilled women, people with disabilities, youths and migrant workers.

We could argue that one of the most important pending challenges is to generate better conditions for workers in productive sectors characterized by flexible contracts. There has been certain consensus that flexibility per se is not under question, while one of its effects, known as deregulation, is a real problem in most countries in the region. Even if we conceive that new ways of contracting labour can have a positive impact on employment growth, the fact that the majority of the countries didn’t have adequate regulations for subcontracting, fixed-term contracts, part-time labour and telework, has meant that enterprises have reduced their costs by avoiding compliance with traditional labour regulations, specially those related to minimum wages and social protection funds. Besides, in most cases these workers are not entitled to benefits from training programs, access to share-profit arrangements or unionize to be able to negotiate better working conditions.

From the workers perspective, this new scenario means dramatic and costly changes. There has been a shift from focusing on one job "for life" to a situation where a change of occupation, enterprise and qualification requirements prevails. The cost involved in this process is high and for many workers
means unemployment (in many countries for long periods) and a loss of protection and productive capacity. The prevailing challenge, therefore, is how to ensure that workers are not affected and have the possibility of adjusting to changing conditions (Martínez, 1998).

Another crucial dimension of the globalization process is greater freedom of movement and people's mobility between the countries; migration has become one of the main issues to consider within the integration processes. As people have better and easier access to communication technology, more and more workers are being encouraged to look for better employment opportunities in different countries. This is true for people from all levels of education; young skilled individuals who have been raised in the context of globalization are particularly keen in developing their working lives in a diversity of countries, depending more on personal expectations that any previous generation. On the other hand, low skilled workers also have more facilities to move between countries, due to lower transportation costs and freedom of movement.

In Viña del Mar (1998), the issue of illegal and legal migration was raised. This is a very sensitive issue, particularly since the majority of the countries of the region have not developed modern migration policies, implementing partial measures as a reaction to illegal immigrants in each country. Population flows have increased not only between the southern to the northern hemisphere, but also between countries in the southern hemisphere that are not necessarily bordering countries.

One of the main challenges of migration is to make sure that these workers are not excluded from the general labour regulations and benefits, independently of their legal status within each country. Many of the arguments against people’s mobility can be avoided by homogenizing labour and social rights between migrants (legal or illegal). Thus, hiring illegal workers for lower wages and without social protection would not be of interest for employers since they would have to comply with the same requirements applied to hire local workers.

Nevertheless, we still face other challenges, such as: the change in the labour structure and particularly the impact of immigrants on labour relations; the development of mechanisms to certify qualifications acquired abroad; and the need to ensure ongoing social security protection for migrating workers. Therefore, we still need to address the issues related to the social exclusion of migrants in the region.

Protecting migrants requires international co-ordination in two areas: growing diversity of social security regimes between the countries (an outcome of the recent reforms) and labour traditions and customs in the territory of a country. Integration agreements that contemplate free circulation of workers require harmonizing social security policies based on four fundamental principles: equal treatment of nationals and foreigners with regard to social security; formally establishing the social security legislation to be applied; preserving rights that have been acquired or in the process of being acquired; and, the possibility of contributing to social security in a foreign country (Martínez, 1998).

Another major issue discussed in the context of the XI Conference was adapting the Labour Ministries and the Labour Administration to the new scenario of economic globalization (addressed by Working Group II). This aspect was looked upon a diversity of perspectives concerning the role of the labour ministries (based on more auto-regulation on the part of the social actors and less regulatory intervention from the State); updating of labour inspection mechanisms and institutions (moving from penalization to prevention); developing social dialogue instances (between workers, employers and governments); introduction of labour reforms adapted to the ongoing changes; relinquishing some traditional functions and assuming new ones, specially related to major level of coordination with relevant governmental bodies, particularly those dealing with social and economic policies.

Most of these issues have been addressed in different levels by Labour Ministries in the region since 1998, it has been of great importance for both Working Groups the implementation of a specific project of technical assistance to the XI Inter-American Conference of Labour Ministers known as the CIMT-ILO Project which has promoted larger participation in the OAS Labour debate of the smaller economies in the region.
More recently, starting in the year 2000 and ratified by the Quebec Summit in April 2001, a new perspective has been put forward, that of the "need to address a fundamental challenge provoked by advances in technology, including information and communication technology: building human resources and creating human capital" (Iglesias, 2000). This implies to consider lifelong learning in the knowledge economy, and governments would need to develop strategies for training and/or retraining women and men in order to be able to develop their human capacities to adjust to the 'knowledge society' to create wealth in the 'new economy' context.

According to Iglesias, one of the main challenges is to cushion the consequences of the expanding "digital divide" as well as the increasing "brain drain" from the Region to developed countries with shortage of technology workers, underscore the fact that current human resource development efforts in the Region, no matter how ambitious recent efforts might be, are insufficient. Much more needs to be done if the Region is to participate in and benefit from growth of a knowledge-economy. This is a complicated challenge requiring a multidimensional and comprehensive response by all countries in the Region.

D. III Summit – Quebec 2001 and the Ottawa Declaration

The democratically elected Heads of State and Government of the Americas met in Quebec City at the Third Summit of the Americas in Quebec City, Canada in April 2001. In this occasion the commitment to hemispheric integration and national and collective responsibility for improving the economic well being and security of the people was renewed. And a Plan of Action was adopted in order to strengthen representative democracy, promote good governance and protect human rights and fundamental freedoms.

For the XII Inter-American Conference of Labour Ministers the most important mandate of the Heads of States lies in the commitment "to create greater prosperity and expand economic opportunities while fostering social justice and the realization of human potential". Recognizing that the American countries face different challenges inherent to the differences in size and levels of social, economic and institutional development in the different countries and region.

At the same time, the decision that negotiations for a Free Trade Area of the Americas (FTAA) should "be concluded no later than January 2005 and to seek its entry into force as soon as possible thereafter, but in any case, no later than December 2005" was ratified. For this purpose Ministers received the mandate to make all efforts necessary so this is accomplished. Consensus was made in that: "a FTAA will be a key element for generating the economic growth and prosperity in the Hemisphere that will contribute to the achievement of the broad Summit objectives. The Agreement should be balanced, comprehensive and consistent with World Trade Organization (WTO) rules and disciplines and should constitute a single undertaking".

At the same time, a commitment was made to the effect that the States "will promote compliance with internationally recognized core labour standards as embodied in the International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work and its Follow-up adopted in 1998. We will consider the ratification of or accession to the fundamental agreements of the ILO, as appropriate. In order to advance our commitment to create greater employment opportunities, improve the skills of workers and improve working conditions throughout the Hemisphere, we recognize the need to address, in the relevant hemispheric and international fora, issues of globalization related to employment and labour". It was explicit that this is a common duty of all Labour Ministries in the Region: "We instruct the Inter-American Conference of Ministers of Labour to continue their consideration of issues related to globalization which affect employment and labour".

Finally, the Heads of State proclaimed: "We reaffirm our commitment to protect the human rights and fundamental freedoms of all, including those who are vulnerable, marginalized, disabled or require special protection. We are committed to the eradication of all forms of discrimination,
including racism, racial discrimination, xenophobia and other related intolerance in our societies, as well as to the promotion of gender equality, and to achieving the full participation of all persons in the political, economic, social and cultural life of our countries.”

In order to put these principles into practice, a whole set of activities were defined in the Plan of Action. We will take into account the most important actions in the areas of labour and social protection.

The guidelines of the Plan of Action concerning labour and social issues (see Annex Nº 1) issues in conjunction with the Declaration of the XI Inter-American Conference of Ministers of Labour held in Viña del Mar, Chile, in October 1998, have inspired the Ottawa Declaration and Plan of Action to be ratified at the XII Inter-American Conference of Labour Ministers in October 2001.

The XI Inter-American Conference of Labour Ministers achieved important progress through two working groups: one related to the labour and social dimensions of economic integration; and the second, addressing the challenges related to the modernization of labour ministries.

The Quebec Summit reinforced that the principle of prosperity can be achieve only by means of protecting and respecting the basic rights of workers, by developing innovative employment policies that consider the improvement of working conditions of employed workers and at the same time facilitates access to employment for those who are in a vulnerable position, specially workers in the informal sector, ethnic and religious minorities, women, youths, indigenous peoples, migrant workers, people with disabilities and people living with AIDS. The latest concern is related to the intersectorial commitment recently made by Health and Labour Ministries at the United Nations AIDS Conference (2001), to eliminate discrimination at work and provide social protection for people living with AIDS.

Special consideration was given to the eradication of Child Labour, particularly the eradication of the worse forms of child labour considered in the ILO Convention 182, which also needs to be looked at, since all countries will inform the ILO on their advances in these matters during the year 2002.

Secondly, the commitment to invest in human resource development and developing mechanisms to assist long term unemployed was ratified. At the same time, reinforcement was made in relation to the strengthening of cooperation and social dialogue on labour matters among workers, employers and governments.

All of these components will incorporate a gender perspective in order to eradicate all forms of discrimination against women in the labour arena. This implies strongly developing intersectorial measures and exchanges of information, knowledge and experiences between countries in the region, as well as generating projects for technical assistance that can make this agenda possible.

Since labour issues do no exist in a separate world, it is extremely necessary that labour Ministries make advances in creating coordinated and integrated policies with other Ministries in each country. Efficiency and efficacy of labour policies more and more depends on the advances in the generation of adequate policies in other areas of life. I will refer to a few areas contained in the Plan of Action of Quebec City that need to be considered for any Labour Agenda to be successful.

Within the context of negotiations for an FTAA, Labour Ministries have a very important role to play, particularly since most countries have been developing tripartite consultation mechanisms (social concertation or social dialogue) in the context of ILO membership. These mechanisms can be used to make sure that free trade will consider social and labour issues. This will support compliance with the mandate to: “Foster through their respective national dialogue mechanisms and through appropriate FTAA mechanisms, a process of increasing and sustained communication with civil society to ensure that it has a clear perception of the development of the FTAA negotiating process; invite civil society to continue to contribute to the FTAA process; and, to this end, develop a list of options that could include dissemination programs in smaller economies, which could be supported by the Tripartite Committee or other sources”. In this sense, consultation with
members of trade unions and employers will be necessary to assure that no negative impact on labour will occur within the context of the FTAA. On the contrary, it will strengthen cooperation and technical assistance between countries on labour matters and at the same time Labour Ministries will have influence in the decision-making process by making sure that the diversity of labour realities in the Region is treated adequately, national labour legislations respected and that no country imposes on the others on these matters.

Other challenge for the Labour Agenda is to generate conditions for developing intersectorial activities, particularly in conjunction with different OAS specialized organs. An example of this is the recent commitment at the Technical Preparatory Meeting of the Conference of Labour Ministers (Miami, July 2001) to develop a common strategy with the Inter-American Commission on Women (CIM), to facilitate the integration of a gender perspective in all labour policies and activities, specially through the development of training programs and the dissemination of information on the human rights of women, as well as support governments in the systematic compilation and dissemination of sex disaggregated data - both in the formal and informal sectors of the economy.

Even though there are concrete advances in the region in the generation of labour statistics, for example the SISME program funded by the OAS, improving quality is still a challenge. Labour Ministries will need special support for creating and harmonizing labour statistical information systems, that incorporate a gender perspective not only in data collection but also in statistical analysis and publications; as well as sharing of information on best practices through the use of new information and communications technologies.

Another huge challenge of the Labour Agenda is the protection of the human rights of migrants, including migrant workers and their families. This implies also the mandate to “Strive that migrants have access to basic social services, consistent with each country’s internal legal framework; support programs of cooperation in immigration procedures for cross-border labour markets and the migration of workers, both in countries of origin and destination, as a means to enhance economic growth in full cognizance of the role that cooperation in education and training can play in mitigating any adverse consequences of the movement of human capital from smaller and less developed states”.

E. Practical issues for the Labour Agenda

The Plan of Action that is being proposed in the context of the Ottawa Declaration considers greater coordination between Ministries of Labour in the region in order to accomplish the mandates of the Heads of States and Government on labour issues. The fact that in the future the monitoring of the activities described in the III Summit, the Ottawa Declaration and its Plan of Action will depend on three countries is a positive measure tending to ensure continuity of efforts, improve coordination between labour ministries and strengthen cooperation mechanisms between developed and developing countries in the region.

As already stated, the Chair Pro tempore (Canada) will count on the support of the past Chair (Chile) and the future Chair (Brazil) towards the implementation of the Plan of Action and improving collaboration and coordination with key international institutions, namely the World Bank, the IDB, ILO, ECLAC, PAHO and the OAS.

For the purpose of advancing in better coordination and adjustment of labour policies with the mandates of the Heads of State, during the XII Inter-American Conference of Ministers of Labour, following the previous structure, two working groups will operate:

Working Group I: will consider the Labour Dimensions of the Summit of the Americas Process, building upon the results of the Working Group on Globalization of the Economy and its Social and Labour Dimensions created under the Viña del Mar Declaration. It will examine the implications of the ILO report “Labour Standards and the Integration Process in the Americas” and consider discussion papers from member states.
Working Group II: Will consider Building Capacity of Labour Ministries, including OAS, ILO, ECLAC as well as the IDB and the World Bank. It will continue the work of the Working Group on Modernization of the State and Labour Administration created under the Viña del Mar Declaration. In particular, it will develop new mechanisms to increase the effectiveness of projects and technical assistance to build the capacity of smaller economies and their institutions, and will cooperate with other inter-governmental committees within the Summit of the Americas process responsible for addressing the special needs of these economies.

Nevertheless, we need to advance in capacity building and vocational training adequate to the needs of the new knowledge economy, but also to improve mechanisms to protect the long term unemployed according to means, develop new labour inspection practices according to the new trends in the labour market organization and the consequent adaptation of labour justice mechanisms that can operate successfully in this new labour context.

We need to look further into the commitment of human and monetary resources by member states to enable the implementation of the Action Plan. The only way of ensuring that decision-making within the context of the ICML reflects the needs and interests of all countries, is by promoting equal and autonomous participation of all labour ministries in the region. Considering the different budgetary capacities of the governments of the region to allocate human resources for the completion of stated actions. It is necessary to continue developing projects and programs that include more than just one country; multilateral programs have proved to be the best way to advance in the debate of labour best practices, generation of statistics and training. In this way we also insure that we develop right strategies for protecting labour rights on the path to a FTAA and to general hemispheric integration.
ANNEX
Labour and employment

Recognizing that employment is the most direct way in which economic activity is linked to the improvement of the standard of living of our citizens and that true prosperity can only be achieved if it includes protecting and respecting basic rights of workers as well as promoting equal employment opportunities and improving working conditions for people in all countries in the region, with special attention to those in the informal sector, to people belonging to ethnic and religious minorities, other vulnerable persons including women, youth, indigenous, migrant workers, persons with disabilities and persons with HIV/AIDS; and noting the importance of investing in human resource development, of promoting employment security consistent with economic growth and developing mechanisms to assist workers with periods of unemployment, as well as of strengthening cooperation and social dialogue on labour matters among workers, their organizations, employers and governments:

Reaffirm the fundamental importance of the Inter-American Conference of Ministers of Labour, welcome the progress made through its Plan of Action adopted in 1998, support the preparatory process for the Twelfth Conference in 2001, and direct Ministers to build upon the Viña del Mar Declaration which focused on the social dimensions of globalization and the modernization of Labour Ministries, by collaborating in the examination of the labour dimension of the Summit of the Americas process, in order to identify areas of agreement and issues where further work needs to be done.

Respect the International Labour Organization (ILO) Declaration on the Fundamental Principles and Rights at Work and its follow-up, adopted in 1998, adopt and implement legislation and policies that provide for the effective application of core labour standards as recognized by the ILO and consider the ratification and implementation of fundamental ILO Conventions.

Consult and coordinate, domestically and regionally in the appropriate form, with a view to contributing to raising the living standards and improving the working conditions of all people in the Americas; create a process for improved collaboration and coordination on the labour dimensions of the Summit of the Americas process between Labour Ministries and other appropriate ministries and key international institutions within the Americas that have a critical role to play in the improvement of labour conditions, in particular the OAS, the ILO, ECLAC, as well as the IDB and the World Bank.

Develop new mechanisms to increase the effectiveness of projects and other technical assistance designed to build the capacity of smaller economies and their institutions to effectively implement labour laws and standards and to foster equality of opportunity with respect to gender, among others, in strategies to promote employment, training, life-long learning and human resource development programs with the objective of promoting access to more and better employment in the new economy.

Strengthen the capacity of the Ministers of Labour to develop and implement effective labour and labour market policies; collaborate with employers and labour organizations to develop and generate information on labour markets; participate in dialogue, tripartite consultations and dispute resolution strategies; and adopt ongoing strategies and programs as a core element for professional development in the labour market.

Continue to work towards the elimination of child labour, and as a priority, promote the hemispheric ratification and implementation of
the ILO Worst Forms of Child Labour Convention, 1999 (No. 182), work to bring national laws, regulations and policies into conformity with this Convention, and take immediate action to eliminate the worst forms of child labour.

Promote and protect the rights of all workers, in particular those of working women, and take action to remove structural and legal barriers as well as stereotypical attitudes to gender equality at work, addressing, inter alia, gender bias in recruitment; working conditions; occupational discrimination and harassment; discrimination in social protection benefits; women’s occupational health and safety; and unequal career opportunities and pay.
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