

BRIDGING THE IMPLEMENTATION GAP IN THE REVISED TREATY OF CHAGUARAMAS

Anselm Francis

I. INTRODUCTION

Although one may be disappointed with the progress made in the deepening of the integration progress, nevertheless, it should be acknowledged that criticism levelled against Caribbean leaders may to a large extent be unfair. Prior to the era of independence the British created a West Indian Federation without any significant input from West Indians and the experiment was short-lived. In spite of the degree of cynicism engendered by the demise of the Federation, Caribbean leaders took their own initiative at re-launching the Caribbean Free Trade Area.

Efforts at deepening the integration process continued apace and a mere five years later the Treaty of Chaguaramas was concluded, establishing the Caribbean Community and Common Market¹ (CARICOM). By any standard, this represented a giant leap forward because 'Community' took us beyond trade and addressed a wider range of issues.²

In the early 1990s³ developments on the international landscape were unfolding rapidly and this dramatic change was replicated at the regional level. Caribbean leaders committed themselves to a Single Market and Economy,⁴ which was the major thrust of the Report of the West Indian Commission.

It should be stated that the said Report also bemoaned the fact that implementation represented the 'Achilles Heel'⁵ of the integration movement. Furthermore, this problem is as old as the movement itself. It would hardly be helpful to ascribe this thorny problem to any malevolence on the part of Caribbean leaders but it is important to understand the problem and the reason for its annoying persistence.

Since the instrument of the Treaty is the bedrock of the Caribbean Community, indeed of all international and regional institutions, part of the answer for the tardy implementation of treaty provisions may lie in an

understanding of the relationship between treaties and the domestic laws of CARICOM Member States. For this reason, this is the first issue which will be addressed in this article.

Having examined this matter in a general way, one should go on to have a closer look at the Revised Treaty of Chaguaramas. It is a Treaty which seeks to venture into areas previously considered to have resided within the exclusive jurisdiction of the state. What should be borne in mind here is that the extended scope of the Treaty of Chaguaramas is likely to exacerbate the problem of implementation because the implications for the much cherished sovereignty would be more serious.

To its credit, the West Indian Commission of eminent West Indian nationals⁶ sought to grapple with the issue of sovereignty and cautioned that in creating a single economic space, CARICOM Member States would not be relinquishing their sovereignty, but pooling that sovereignty⁷ to enable them to be more effective actors on the international plane. Lamentably, it stopped short of advocating a supranational⁸ Community law and, instead, opted for the intermediate stage of absolute sovereignty and a highly advanced form of cooperation.⁹

The recommended creation of a CARICOM Commission is laudable but because of the position taken on sovereignty, its decisions would not be directly applicable within the territories of Member States. Admittedly, there is need to tread warily on the issue of sovereignty but it should be stressed that too strong a desire to cling on to individual sovereignty militates against its effective exercise. Form should never be mistaken for substance.

The establishment of the Caribbean Court of Justice should be viewed as a salutary development. It would determine disputes arising out of the interpretation and application of the Revised Treaty of Chaguaramas and, very significantly, it has compulsory jurisdiction. This means that the Caribbean Community has finally embraced binding and enforceable commitments as one of its basic principles. It should not be assumed that the legal approach should always be preferred to the diplomatic method of resolving disputes but it ensures that no state can be judge and jury in its own case.

II. THE TREATY IN CARIBBEAN JURISPRUDENCE

In international relations the treaty¹⁰ instrument is indispensable for creating the regulatory framework for cooperation. This explains the proliferation of multilateral treaties in the immediate aftermath of the Second World War when states fully appreciated the need for greater cooperation. As the process of globalization deepens and gathers pace, it is

a fair comment that the treaty would assume even higher salience on the international plane and at the regional level.

In spite of the increasing importance of the treaty, it does not automatically become part of national law within CARICOM Member States. The practice in the Caribbean region has been to adopt a dualist approach to treaty law and domestic law. From this perspective, the treaty, once it is in force, imposes obligations and as a result must be observed in good faith. However, it remains outside of the ambit of national law and can only become such by means of legislative enactment.¹¹

It is worth noting that not all states observe a rigid separation between treaty law and national law.¹² In some states the treaty becomes an integral part of national law without any legislation being enacted and the courts would take due cognizance of it. Obviously, this issue involves not only international law, but also constitutional law. It may be argued that in cases where the treaty has the force of law within the state there is not a strict adherence to the doctrine of the separation of powers. This would certainly be the case with respect to CARICOM Member States because the power to make treaties belongs exclusively to the executive arm of government.¹³

If Parliament is given a role in the conclusion of treaties, the case for the monist doctrine¹⁴ would become much stronger. Currently, Parliament's role is restricted to passing laws which are necessary for giving effect to the treaty provisions¹⁵. In the context of good governance, serious consideration should be given to a more balanced allocation of treaty-making power between the executive and legislative arms of government.

Be that as it may, it is contended that the time has come for a distinction to be made between the Revised Treaty of Chaguaramas and decisions arising therefrom, and other treaties. CARICOM Member States should be bold enough to make the necessary constitutional amendments to bring this to fruition because such a regime is a sine qua non for a strong Community. Before considering this issue indepth, it would help to examine the essential features of the Revised Treaty since it is the constituent instrument of the Caribbean Community.

III. CRITIQUE OF THE REVISED TREATY

The Revised Treaty of Chaguaramas has established the Community which is the successor¹⁶ to the Caribbean Community and Common Market which came into being in 1973. Its *raison d'être* is the deepening of regional economic integration¹⁷ by transforming the Common Market to a Single Market¹⁸ and Economy,¹⁹ thus creating a single economic space²⁰

within the Community. Under this new dispensation the focus is not only on trade liberalization, but extends to the right of establishment, the right to provide services and the right to move capital in the Community. In other words, the factors of production are to move freely within the Community.

Although Member States of the Community have committed themselves to the goal of the free movement of their nationals,²¹ many of the restrictions on the movement of natural persons have remained.²² The tentative steps made towards the unimpeded movement of persons are confined to a narrow category: University graduates, media workers, sportspersons, artistes and musicians.

In Time for Action²³ the West Indian Commission remonstrated with Caribbean leaders to make travel of Caribbean nationals within the region less harassing and it is a fair comment that even before the ratification of the Revised Treaty serious efforts were made to implement that recommendation. CARICOM nationals and citizens of Member States now stand in the same line to be checked by Immigration officials. This measure may help to engender a sense of community and build solidarity among Caribbean people. It may also result in more frequent travel within the region, a development which would break the barrier of remoteness and assuage the feeling of alienation.

In view of the extensive scope of the Revised Treaty and the myriad of functions assigned to the Caribbean Community, there is a critical need for proper institutional arrangements, but it is submitted that the Revised Treaty is deficient in this regard. The principal²⁴ organs and the other organs²⁵ are all made up of Heads of Governments²⁶ and Cabinet Ministers²⁷ whose duties at home must be too onerous to allow them sufficient time to devote to Community matters. Article 10 of the Revised Treaty provides:

1. The principal Organs of the Community are:
 - a) the Conference of Heads of Government; and
 - b) the Community Council of Ministers which shall be the second highest organ.
2. In the performance of their functions, the principal organs shall be assisted by the following Organs:
 - a) the Council for Finance and Planning;
 - b) The Council for Trade and Economic Development;
 - c) The Council for Foreign and Community Relations; and
 - d) The Council for Human and Social Development.

Not surprisingly, the Conference is the supreme²⁸ Organ of the Community and is charged with the duty of providing policy direction for

the Community. Its other duties include the conclusion of treaties on behalf of the Community and the shaping of the foreign relations of the Community. It is clear that Member States have created an institution with international personality because without it, it would not be able to act on the international plane. However, it is argued that its role as an international actor would be circumscribed by virtue of the fact that its executive powers are very limited.

Since Community law and the domestic laws of Member States are separate and distinct systems, it is difficult to understand how the obligations assumed under treaties concluded by the Community can be discharged by it. It would have to rely on its Member States to enact legislation to give effect to the provisions of treaties which it has entered into.²⁹ If Member States do not take the necessary legislative measures at the same time, it means that the Community would be in breach of its treaty obligations in the territory of Member States which have not complied, but would be acting in accordance with these treaties in cases where its Member States have adopted the necessary measures to implement the terms of the treaties. In other words, Community qua Community is unable to act to discharge its obligations.

The Revised Treaty provides that the Community Council of Ministers shall, on the instructions of the conference, issue directives to Organs and to the Secretariat with a view to ensuring the timely implementation of Community decisions.³⁰ Such directives would, at best, serve as moral suasion, at worst, would be empty rhetoric because decisions taken by Organs do not have the force of law within Member States. The Organs and the Secretariat have no recourse other than trying to persuade a Member to pursue a particular course of action. Any Community is hardly worthy of such appellation if it cannot conclude its treaties and discharge the obligations which they impose without having to rely on its Member States to perform this task for it.

The conduct of the negotiation of external trade and economic agreements is not the sole responsibility of the Community because Member States retain the right to negotiate bilateral agreements. This arrangement clearly leaves the door open for conflict and one is not certain that this is effectively addressed in the Revised Treaty. Article 80 (3) attempts to do so by providing:

Bilateral agreements to be negotiated by Member States in pursuance of their national strategic interests shall:

- a) be without prejudice to their obligations under the Treaty;
- and

- b) prior to their conclusion, be subject to certification by the CARICOM Secretariat that the agreements do not prejudice or place at a disadvantage the position of other CARICOM States *vis-à-vis* the Treaty.

This clearly represents an attempt to provide some safeguard for Community interests and attempts to show that the Revised Treaty is paramount. However, there is the risk of opening up a Pandora's box by signalling to Member States that they can still pursue their 'national strategic interests'³¹ in the area of trade in spite of the fact that the objective of the Treaty is to create a single economic space.

Obviously, the creation of a single economy will have to be established over a period of time but there is some concern whether the burden placed on the Organs to achieve this objective is not too heavy, bearing in mind that the Organs comprise Ministers who have heavy responsibilities at home. For example, the functions of the Council for Trade and Economic Development range from the promotion of the development of the CARICOM Single Market and Economy to establishing measures for the accelerated development of science and technology; from developing measures for the marketing of services, to promoting the protection and preservation of the environment.³²

It would seem reasonable that the Community should have created an organ with quasi-executive authority to achieve these laudable goals. Indeed, the West Indian Commission recommended the establishment of a Commission to be made of eminent persons from the region, who would be able to give their undivided attention³³ to the deepening of the integration process. This eminently reasonable proposal was not accepted and it is submitted that this would be to the detriment of the regional integration process. This writer is fully persuaded that the issue of the Commission should be revisited because it is seen as the missing link in the regional integration process.

IV. THE MISSING LINK

The term 'Community' has been part of the regional integration lexicon since the conclusion of the Treaty of Chaguaramas in 1973. It is worth noting that it established the Caribbean Community³⁴ and Common Market. This term is retained in the Revised Treaty of Chaguaramas Establishing the Caribbean Community Including the CARICOM Single Market and Economy. When one examines the constituent instrument of the Caribbean Community one observes little difference between its institutional arrangements and those of other organizations or institutions of which countries in the region are Members.

The procedure followed for giving effect to treaties concluded under the aegis of those organizations is similar to that used in incorporating the provisions of the Revised Treaty into national law. This is equally applicable to the decisions of the organs of those organizations and those of the Caribbean Community. The point to be stressed is that structurally the Caribbean Community is like any other international organization. Thus far, Caribbean Community Member States have not vested any organ of the Community with the requisite authority to take decisions which are directly applicable within the territory of Member States.

Presumably, Member States would like to guard their sovereignty and it appears that even the West Indian Commission was deferential to the sovereignty of the Member States. It is true that in the Time For Action it was recommended that a Commission of full-time Members should be established but its focus was principally on implementation, which is a common thread running throughout its Report. It is submitted that the problem of the integration process is not simply that of implementation but extends to limited capacity on the part of Member States, particularly the so-called Less Developed Countries (LDCs).³⁵

Clearly, the question of capacity building can be addressed by the pooling of resources and for agreeing on common action in certain areas, for example, trade and economic matters. Under the existing Community arrangement, implementation of treaties must take place at the national level. If the decision is taken to build a Community and have it provided with the competence to take decisions which take effect directly within Member States, the Community would be spared the inordinate delays in implementation, or worse still, non-implementation.

There are Caribbean scholars who recognise the problem but few have captured it better than Professor Vaughan Lewis. He opines:

So the process of implementation of the CSME has been much more prolonged than anticipated, partly due to the necessity, in the context of limited resources, to 'bat on all fronts' at the same time In addition, the legislative arrangements that have had to be put in place have proved overwhelming. For our integration movement has never seemed to wish to accept the EU formula of having a portmanteau piece of legislation that all countries accept³⁶

The 'portmanteau' piece of legislation would mean that Member States would have to observe three systems of law: national or municipal law, Community law and general international law. It should be pointed out that it is true to say that the EU formula includes the piece of enabling legislation, but equally important, the Treaty of Rome establishing the European Economic Community, as it was known at the time of its

establishment, has created organs clothed with the necessary authority to act on behalf of Members of what is now known as the European Union (EU).

If different systems of law are advocated, it would be necessary to determine the hierarchical order of those systems. It is suggested that in the event of any conflict between Community law and national law, the former should prevail. This may sound alarming to adherents to the principle of sovereignty but it should be stressed that the Community's area of competence is very limited.

A valid criticism which may be levelled against this proposal is that the members of the new organ will not be elected and as a result may not be accountable to any electorate. The Caribbean Commission might have answered this question inadvertently when it proposed that an Assembly of Parliamentarians³⁷ should be established. In general, the Commission was addressing the issue of governance and was making the case for the greater participation of Parliamentarians of the region. Such participation would be enhanced if such an organ is allowed to question Community's officials, request relevant documents and on the basis of a qualified majority may have the power to veto decisions of the Commission.

The creation of a single market and economy should not be seen as a project which can be completed in one fell swoop. New issues will be placed on the Community's agenda and programmes must be developed to deal with them.

Under the current institutional arrangements Community organs are likely to take time in anticipating and responding to new developments. Other things being equal, we should not expect part-timers to perform as effectively as persons who can devote all the time and attention to Community affairs.

Notwithstanding their obsession with sovereignty, Member States of Caribbean Community have agreed to the compulsory settlement of disputes³⁸ by placing less emphasis on diplomacy and more on adjudication. The Revised Treaty has recognized the Caribbean Court of Justice (CCJ) which would function both as a Court of first instance and as a final Court of Appeal.

V. SETTLEMENT OF DISPUTES

In contemporary international relations the treaty has arguably emerged as the main source of international³⁹ law. Unlike many other treaties, the Revised Treaty has created its own mechanism for the settlement of disputes and in doing so has provided Member States with a wide range of options⁴⁰ to resolve disputes amicably. These may be divided

broadly into diplomatic and legal methods. Under the rubric of diplomacy are consultations, good offices, mediation and conciliation.⁴¹ Within the legal category are arbitration⁴² and judicial settlement.⁴³

Diplomatic methods maybe distinguished from legal methods by their non-binding nature.⁴⁴ For example, parties who resort to mediation or conciliation do not undertake beforehand to be bound, consequently the proposals which emanate from that process are in the form of recommendations. They may be accepted or rejected. On the other hand, when parties to a dispute submit it to a court or arbitration they commit themselves to accept the decision of the court or the arbitral award⁴⁵.

The method chosen will be determined by the parties' perception of the nature of the dispute and the desired outcome. A court or an arbitration tribunal must decide a case by the application of legal principles.⁴⁶ This means that there can be a winner or a loser. In contrast, diplomatic methods are sufficiently flexible to offer a 'win/win' situation. In spite of this, the weaker state may consider itself to be at a disadvantage if one of the diplomatic methods is used because the more powerful state may be able to exercise greater leverage over the process.

The Revised Treaty seeks to redress this imbalance by providing that the Court shall have compulsory and exclusive jurisdiction to determine disputes arising out of the interpretation and application of the Treaty. The disputes include:

- a) disputes between the Member States parties to the Agreement;
- b) disputes between the Member States parties to the Agreement and the Community,
- c) referrals from national courts of the Member States parties to the Agreement
- d) applications by persons in accordance with Article 222,

The Court has wide jurisdiction and referrals from national courts and the *locus standi* of private entities deserve special mention. It is important that the provisions of the Revised Treaty should be uniformly interpreted and applied but in the absence of referrals, interpretations by national courts may be different from those made by the Court. This would be a recipe for confusion and the element of predictability which is highly desirable in judicial matters would be severely eroded.

In view of the fact that private entities conduct most of the trade in the region, it is a good idea that they should have the right to bring an action before the Court. Traditionally, under international law private entities were considered to be objects of the law,⁴⁷ and not subjects, and as such any claim arising from injury suffered by them had to be prosecuted

by the state whose nationality they possessed.⁴⁸ For example, one notes that only states can bring action before the International Court of Justice.⁴⁹

It is commendable that the Revised Treaty has adopted a position different from that which existed under classical international law. Private entities have *locus standi* before the Caribbean Court of Justice and do not necessarily have to rely on the Member States whose nationality they possess to prosecute their claim. This is a salutary development because it is conceivable that private entities may have their rights infringed but the surrounding circumstances may act as a deterrent against their state's espousing their cause. It would be a travesty if a company or individual were to be denied the right to pursue its own action in such a scenario.

However, with a view to guarding against abuse of that right, restrictions⁵⁰ have been imposed. A. natural or judicial person can only bring an action with the special leave of the Court. This restriction would enable the Member State concerned to pursue the matter through diplomatic channels, rather than through the Court. It should be stressed that the Court may not always be the best forum to consider a dispute.

Article 223 (1) stipulates:

The Member States shall, to the maximum extent possible, encourage and facilitate the use of arbitration and other modes of alternative disputes settlement for the settlement of private commercial disputes among Community nationals as well as among Community nationals and nationals of third states.

Admittedly, the article refers to private commercial disputes but it is contended that arbitration could also be a suitable alternative for disputes arising out of the interpretation and application of the Revised Treaty. One major disadvantage of arbitration is that the parties to the dispute must bear the cost of setting up the arbitration tribunal.⁵¹

Since all, but two,⁵² Member States of the Community are common law countries, it is hardly surprising that judgments of the Court constitute legally binding precedents for parties in proceedings before the Court.⁵³ This is a departure from the international law norm because in most cases decisions are binding only on parties to the dispute and with respect to that particular dispute.⁵⁴ In considering the merit of this provision, one should see it as a choice between predictability and flexibility. The Revised Treaty has opted for the former and foregoes the benefit of the latter.

VI. CONCLUSION

The attempt in the region to deepen the integration process should be seen as part of a global phenomenon.⁵⁵ It should also be stated that the Caribbean Community has taken it to a more advanced stage than most other regions. In spite of this, it should be noted that the integration edifice

constructed by the Revised Treaty is incomplete. This is so for two main reasons – the lack of a Community organ comprised of full-time members to continue the unfinished business of the Treaty and the cumbersome manner in which provisions of the Treaty and decisions of the organs of the Community are transformed into domestic law.

The existing organs are assigned numerous functions but are vested with limited authority. Member States continue to exercise tight control over the organs and as a result they are unable to act independently of Member States. For this reason, Community interests are always subordinated to national interests. It is a fair comment that the Revised Treaty is a reflection of a weak sense of community.

This is unfortunate because a strong sense of community is critical for strengthening and consolidating the integration movement. At the moment national sovereignty continues to cast its long, dark shadow over the integration movement. The intention here is not to dismiss sovereignty but to propose that it should be understood in a more enlightened manner.

The West Indian Commission was absolutely correct in pointing out that the establishment of the Caribbean Community does not represent the loss of sovereignty but merely a pooling of that sovereignty to enable Member States to have a more effective voice in the conduct of their external economic relations. In order to achieve this objective Member States have resorted to improvisation by creating the Regional Negotiating Machinery but it is submitted that such an agency should be the creature of treaty with its powers and authority spelt out in that treaty.

Community law and national law are currently different systems but this approach by Member States of the Caribbean Community has serious implications for implementation. At the national level, our states have very limited capacity, particularly the Organization of Eastern Caribbean States countries. It is a formidable challenge to them to enact legislation to implement the treaty provisions necessary to bringing the Single Market and Economy to fruition. It should be noted that new issues would continue to appear on the Community agenda, thus making the challenge of implementation even greater if the dual system of national law on the one side, and Community law on the other, is maintained. The argument in support of fusion of the two systems is not based on any doctrinaire reasons that the monist doctrine is superior to the dualist approach, but on grounds of pragmatism that the problem of implementation would be alleviated.

The Revised Treaty could have done more to correct the serious institutional weaknesses of the Caribbean Community by establishing a Commission and an Assembly of Parliamentarians. The existing arrangement under which the principal Organs and other Organs are all

made up of Government Ministers of Member States is inadequate. This is not to say that Government Ministers do not have a very important role in the development of the Caribbean Community since it is fully appreciated that support from national Governments is vital for the long-term survival of the Community. However, the political reality is that Government Ministers must be expected to give priority to national issues. What is needed is a formula for striking the right balance between national issues and Community matters. Such a compromise can be reached by the creation of a Commission whose members would be fully committed to the work of the Community.

In focusing on a Community Commission, we should not consider only the problem of implementation but should shift our gaze to the taking of new initiatives and the close monitoring of international economic developments. Organs made up of full-time Government Ministers would be hard pressed to perform such functions effectively,

In establishing the Caribbean Court of Justice and conferring on it compulsory jurisdiction over disputes arising out of the interpretation and application of the Revised Treaty, Member States have taken a giant leap forward. This important decision has resulted in the creation of a rule-based system and has made binding and enforceable commitments one of the cardinal principles of the Caribbean Community,

The Revised Treaty has conferred a special status on the smaller Member States of the Eastern Caribbean, thus the Community can claim that it has paid due respect to the principle of equity. All Member States have equal rights under the Treaty but cognizance is taken of the different stages of economic development among Member States. It is envisaged that a special regime⁵⁶ would be established with a view to enhancing the prospects of the Less Developed Countries for successful competition within the Community. Incidentally, this special provision places Member States of the Community on the moral high ground when they advocate in international fora the application of the principle of special and differential treatment in their relations with developed countries.

NOTES

- ¹ The Treaty established the Caribbean Community and its Annex which forms an integral part of it created the Caribbean Common Market.
- ² Matters pertaining to functional cooperation and the coordination of foreign policies.
- ³ It should be noted that the initial commitment to the CSME was made in the 1989 Grand Anse Declaration. The decision to appoint the West Indian Commission was also taken.
- ⁴ Time For Action: Report of the West Indian Commission (Black Rock, Barbados: The West Indian Commission, 1992). At p. 104 it is stated:
Technically, a Single Market involves a market structured and functioning to large extent as if it were within the borders of a single country. There must, therefore, be freedom of movement of goods, services, labour and capital, and supportive fiscal and monetary measures and arrangements.
- ⁵ Time For Action, p. 462.
- ⁶ The West Indian Commission comprised fifteen members. It was Chaired by Sir Shridath Ramphal and Sir Alister McIntyre served as Vice-Chairman.
- ⁷ Time For Action, p. 466.
- ⁸ Emphasis mine.
- ⁹ Time For Action, p. 25.:
Amalgamation of power in one single center is not practical at this time, the joint exercise of sovereignty in a whole range of operational matters is, we believe, perfectly feasible.
- ¹⁰ Friedmann, W. The Changing Structure of International Law. cited in Harris, D.J. Cases and Materials on International Law (London: Sweet & Maxwell, 1998) p. 44.
- ¹¹ Brownlie, I., Principles of Public International Law (Oxford: Clarendon Press, 1979) at p. 49.
- ¹² Brownlie, I., pp. 32-35.
- ¹³ Anderson, W., "Treaty Implementation In Caribbean Law and Practice," Caribbean Law Review (1998), vol. 8, at p. 187.
- ¹⁴ Bownlie, I., at p. 34.
- ¹⁵ Anderson, W. at p. 187.
- ¹⁶ See Article 2.
- ¹⁷ Paragraph 1 of the Preamble to the Revised Treaty.
- ¹⁸ Art. 30 of the Revised Treaty.
- ¹⁹ See generally Chapters 4, 5 and Six of the Revised Treaty.
- ²⁰ Time for Action at pp. 108-109.
- ²¹ Art. 45 of the Revised Treaty.
- ²² See Art. 46 of the Revised Treaty.
- ²³ Time For Action at pp. 135-142.
- ²⁴ See Article 10(1) (a) and (b) of the Revised Treaty.
- ²⁵ See Article 10 (2) (A), (B), (C), (D) of the Revised Treaty.
- ²⁶ See Article 11 of the Revised Treaty.

²⁷ See Articles 13, 14, 15, 16, 17.

²⁸ Emphasis mine.

²⁹ Anderson, W. at pp. 190-191.

³⁰ Article 13 (4) (h) of the Revised Treaty.

³¹ Emphasis mine.

³² Article 15 of the Revised Treaty.

³³ Time For Action, at p. 465 it is stated:

If we are serious about integration, we have at least to be certain that there are West Indians charged with the task and endowed with authority to make integration work. They have to be engaged upon the task exclusively: 24 hours a day, 7 days a week

³⁴ Emphasis mine.

³⁵ See Articles 3 and 4 of the Revised Treaty.

³⁶ Lewis, V.A., "The Caribbean Single Market and Economic (CSME): The International Environment and Options for CARICOM and the OECS Counties", in Hall, K. et al (eds.) *The Integrationist* (Kingston. Miami: Ian Randle Publishers, 2006) at 2. 26.

³⁷ Time For Action at p. 485.

³⁸ Article 216 of the Revised Treaty.

³⁹ Shaw, M. *International Law* (Cambridge: Cambridge University Press, 1977) at pp. 96-98.

⁴⁰ Article 188 of the Revised Treaty.

⁴¹ Cf. Article 33 of the Charter of the United Nations.

⁴² Article 204 of the Revised Treaty.

⁴³ Article 211 of the Revised Treaty.

⁴⁴ Berridge, G.R., *Diplomacy* (New York: Palgrave, 2002), pp. 187-203.

⁴⁵ Shearon, I.A., *Starke's International Law* (London: Butterworths, 1994) at pp. 442-450.

⁴⁶ Harris, D.J., at pp. 986-990.

⁴⁷ Harris, D.J., at pp. 140-142.

⁴⁸ *Barcelona Traction, Light and Power Co. Case*, ICJ Rep. 1970 at para. 92.

⁴⁹ Article 34 of the Statute of the International Court of Justice.

⁵⁰ Article 222 of the Revised Treaty.

⁵¹ Article 210 of the Revised Treaty.

⁵² Neither Haiti, nor Suriname is a common law country.

⁵³ Article 221 of the Revised Treaty.

⁵⁴ See Article of the Statute of the International Court of Justice.

⁵⁵ Other regional arrangements include the North American Free Trade Area, the European Union, South American Common Market, Economic Commission of West African States, Central American Free Trade Area, Association of South East Asian Nations.

⁵⁶ Article 142 (1) of the Revised Treaty.

References

- Anderson, W. (1998) “*Treaty Implementation in Caribbean Law and Practice*”, Caribbean Law Review, Vol.8 at p.187
- Berridge, G.R. (2002) *Diplomacy*, New York: Palgrave
- Brownlie, I. (1979) *Principles of Public International Law*, Oxford: Clarendon Press
- Friedmann, W. (1964) *The Changing Structure of International Law*, London: Stevens
- Harris, D.J. (1998) *Cases and Materials on International Law*, London: Sweet & Maxwell
- Lewis, V.A. (2006) *The Caribbean Single Market and Economy (CSME): The International Environment and Options for CARICOM and the OECS Countries* in Hall, K. et al. (eds.) *The Integrationist* (Kingston, Miami: Ian Randle Publishers
- Shaw, M.. (1977) *International Law*, Cambridge: Cambridge University Press
- Shearon, I.A. (1994) *Starke’s International Law*, London: Butterworths

Reports and Documents

- The Revised Treaty of Chaguaramas in Pollard, D. (ed.) *The CARICOM SYSTEM: BASIC INSTRUMENTS* (Kingston, Jamaica, The Caribbean Law Publishing Co.)
- Time for Action: Report of the West Indian Commission (Black Rock, Barbados: The West Indian Commission, 1992)

