

Policy Imperatives For International Trade In Construction Services In The Caribbean Community

T.M. Lewis¹ &
C.A.C. Imbert²

The Caribbean Community (CARICOM) is in the Process of establishing a Caribbean Single Market and Economy (CSME). Amongst other things, the Community is currently agreeing on the terms under which the General Agreement on Trade in Services (GATS) will be implemented, and the construction industry is one of the most important industries in the services sector, and highlights many of the important issues regarding trade within CARICOM as well as between the Community and elsewhere. Issues relevant to the CSME, GATS and to the construction industry include: Accreditation of Qualifications; Harmonization of Regional Registration Legislation; Mutual Recognition of Qualifications and Reciprocity; Free Movement of Natural People; Market Access; Subsidies; Right of Establishment; and New Restrictions on the Provision of Services. These are the key issues also with regard to the CSME establishing fair and effective trading relations with other trading blocs such as the Free Trade Area of the Americas, which it is due to join in 2005. Engineers normally leave the discussion of these issues to economists or politicians, and complain about the results afterwards. This is hardly a satisfactory professional response. In order to be more proactive in ensuring that the profession is properly represented, the engineering bodies in the Community have taken the initiative to formulate positions on these matters, for advising political decision-makers. This paper discusses some of the outcomes of that initiative.

1. Introduction

The Caribbean Community (CARICOM) comprises about twelve million people from fifteen territories in the region, namely Antigua and Barbuda, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname and Trinidad and Tobago. These countries are English-speaking, former British colonies, most of which gained independence in the 1960s and 1970s except Haiti (French-speaking

and independent from France since 1804) and Suriname, where Dutch is the official language, having attained independence from The Netherlands in 1975. CARICOM evolved out of the Caribbean Free Trade Association (CARIFTA), which was agreed to in 1965 but did not come into being until 1968 with the establishment of the Commonwealth Caribbean Regional Secretariat in Georgetown, Guyana. CARICOM itself became a reality 1974. (CARICOM, 2004).

The countries of the CARICOM

¹ Senior Lecturer, Department of Civil Engineering, The University of the West Indies, St. Augustine, Trinidad, WI
² Secretary-General, Council of Caribbean Engineering Organisations, Association of Professional Engineers, PO Box Port of Spain, Trinidad, WI

community can broadly be considered to be 'developing' countries, and are divided between those that are deemed Lesser Developed Countries (LDCs), and those that are More Developed Countries (MDCs); for administrative reasons the Community treats separately with the islands otherwise known as the Windward Islands and the Leeward Islands as the Organisation of Eastern Caribbean States (OECS). The groupings defined by CARICOM are; MDC's: Barbados, Guyana, Jamaica, Suriname, and Trinidad and Tobago; LDC's: Belize and Haiti; OECS: Antigua and Barbuda, Dominica, Grenada, Montserrat, St. Kitts and Nevis, Saint Lucia, St. Vincent and the Grenadines

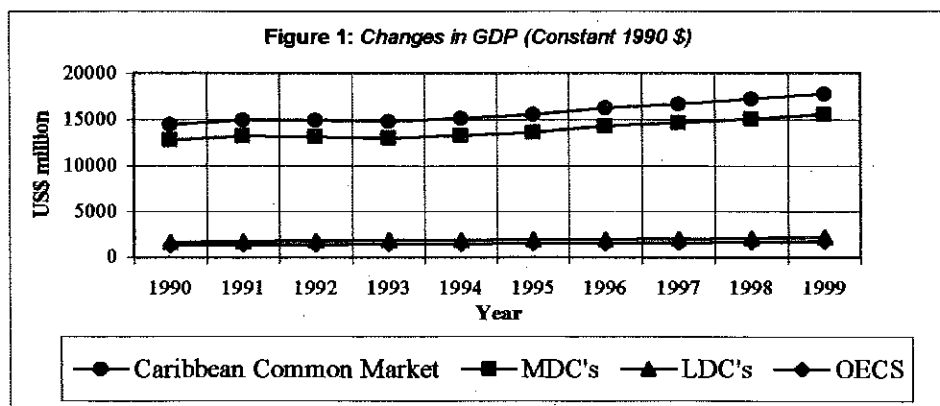
Figures 1, 2 and 3 indicate the scale of these groupings and their recent performance in terms of their Gross Domestic Product (GDP). Figure 1 shows the GDP in US\$ millions (at constant 1990 prices) for the community and the groupings of countries into MDCs, LDCs and the OECS. Figure 2 shows the Per Capita GDP in US\$ (at constant 1990 prices), and Figure 3 shows the GDP of the construction industry in US\$ millions (at constant 1990 prices) for the community and groupings. All statistics were obtained from the CARICOM Secretariat (2002a).

Figure 1 shows that during the decade of the 1990s, the countries of the OECS performed like the LDCs and showed relatively steady growth at an average of a little over 2.75% per annum, while the MDCs grew at a little over 2.13% per annum. The MDCs dominate the market in absolute terms, and so they largely determine the overall performance of the

community itself. It should be noted that this is real growth, with all GDP values adjusted to 1990 equivalent \$. Thus local distorting factors like inflation and exchange rate fluctuations are taken out of the picture.

The overall GDP of the CARICOM community grew on average by a little over 2.25% per annum over the decade. Guyana showed the highest average growth rate of a little over 6.33%, while Montserrat suffered an average annual decline of around 6.5%. Both countries experienced exceptional circumstances that help explain their performance, with Guyana showing some recovery from a disastrous decline during the 1980s, so that the construction industry was unusually depressed at the start of the 1990s - hence a relatively low growth of GDP in absolute value terms translated into quite a high proportional growth rate. Montserrat's performance reflects the fact that it suffered a severe economic decline due to the volcanic eruption there that laid waste almost two thirds of the island.

Guyana and Suriname are large countries with small populations, so their GDPs were naturally lower than those for more populous countries like Jamaica, and consequently it is perhaps more relevant to examine per capita GDP when comparing economic performance. Figure 2 shows the GDP per capita, again in constant 1990 \$ terms. It can be seen that all of the country groupings show a rise in output per capita (and thus their average standard of living). It can also be seen that the countries of the OECS have consistently outperformed the other groupings since the early 1990s.



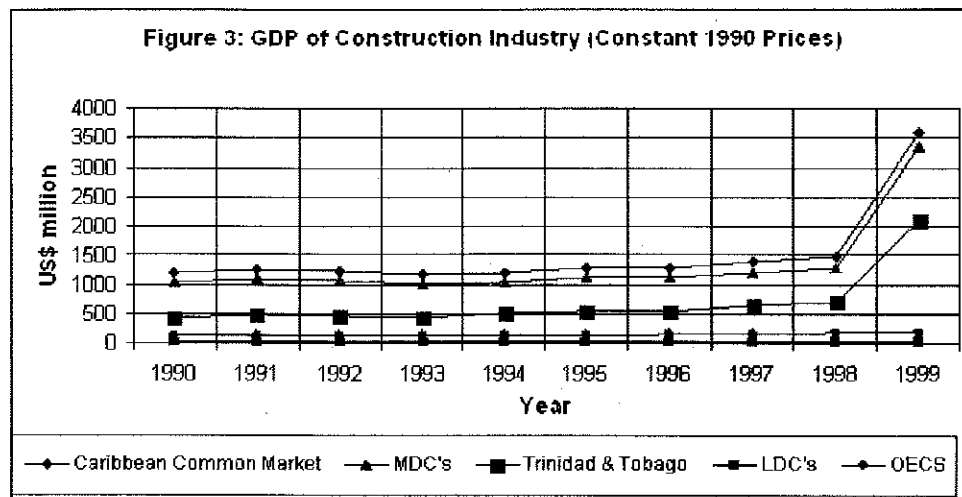
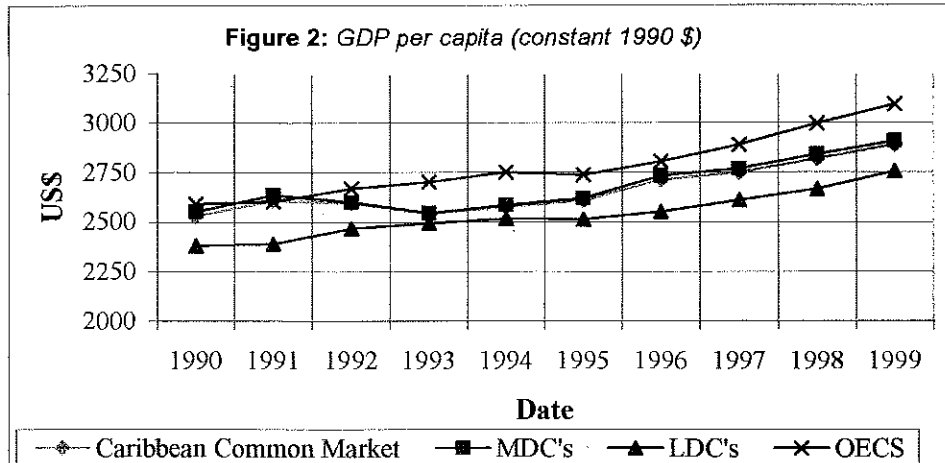


Figure 3 shows that the OECS and LDC construction industry performance are very similar, while the MDCs and the Community are also similar. The sudden advance of the MDC and Community curve after 1998 is due in large part to a sudden expansion of the industry output for Trinidad & Tobago. This resulted from a large increase in government income due to oil and gas industry developments that enabled a number of large public sector construction projects to be implemented, including the hugely expensive new airport terminal. The construction industry in Jamaica and Suriname also experienced very significant proportional growth during the same period, while they undertook major infrastructural improvements and expansions. Because it

was exceptional circumstances that caused these sudden growth spurts (in each case the industry's GDP trebled within one year) it is unlikely that they will be sustainable in the longer term. However, increasing international attention on improving the status of the less developed nations may result in significant additional construction work and thus the average construction industry output may stabilize at a higher level than obtained before.

2. The General Agreement on Trade In Services

While the General Agreement on Trade in Services (GATS) is a government-to-government agreement, it is of direct

relevance to firms because it lays down the framework of rules within which they operate internationally, and a legal structure for ensuring that those rules are observed. This allows companies to identify which markets are open to them and any terms and conditions that may apply, as well as ensuring that such markets remain open in the future. There are a number of issues relating to the intra-CARICOM negotiations on the establishment of the CSME (Lewis and Imbert, 2002) and to the negotiations with the Free Trade Area of the Americas (FTAA) and the World Trade Organization (WTO) that are of special significance to the construction sector¹. These will be discussed under separate headings: Accreditation of Qualifications; Harmonization of Regional Registration Legislation; Mutual Recognition and Reciprocity; Free Movement of Natural People; Market Access; Subsidies; Right of Establishment; New Restrictions on the Provision of Services. Important areas such as fiscal and financial measures and other issues in respect of competitiveness are dealt with elsewhere (CARICOM Secretariat 2002a, CARICOM Secretariat 2001a).

One of the first steps in the establishment of the CSME is the harmonization of the legislation across countries. The enabling legislation and necessary regulatory and administrative arrangements are due to be completed by 2005. Draft model laws on all the important areas have been formulated, but only a few have been enacted and only in a few of the fifteen countries.

The trade negotiations are supposed in general to open industry to competition, and to clarify any terms and conditions that may apply. If member countries do not feel that they are getting fair treatment, they can refer their dispute for review and settlement.

The services sector is one of the most important areas for trade negotiations because it has been such an engine of growth in recent times, and is expected to

continue to be in the future. Within services the construction industry is perhaps the most important element, both because of its size, and because, more than any other, it covers a full range of commercial activities, including consulting, contracting and manufacturing. Construction is also affected by most of the major issues involved in the negotiations and because of this, engineering professionals from throughout the region were asked to identify the issues that were considered important by the sector, as well as the positions that they would like put forward to policy makers (Lewis and Imbert 2002). The following sections will address some of those issues and positions.

3. Accreditation of Qualifications

One of the overall objectives under GATS, as laid out in Protocol 2, Article 35 e, is to "establish common standards and measures for accreditation or where necessary for the mutual recognition of diplomas, certificates and other evidence of qualifications...(and) to determine equivalency or accord accreditation to diplomas, certificates and other evidence of qualifications secured by nationals...(and) the coordination of legislative and administrative requirements of Member States in order to facilitate access to, and engagement in...activities in the Community" (CARICOM Secretariat 2001a).

The basic academic qualification for entry into the engineering profession anywhere in the world is an undergraduate degree in engineering². The professional engineering organisations in the region are consistent in stipulating this as the educational requirement for membership. Currently The University of the West Indies (UWI) is the principal degree granting institution in the region amongst a range of Tertiary Level Institutions (TLIs) including the University of Technology (UTech) in Jamaica, and the Universities of Trinidad &

¹ Wherever the views of the construction industry or its professionals are indicated, these derive from the survey undertaken for the major study cited at Lewis and Imbert, 2002.

² As noted in the Washington Accord (2003) Agreement "Accreditation of engineering academic programs is a key foundation for the practice of engineering at the professional level in each of the countries or territories covered by the Accord"

Tobago, Guyana, Suriname and Belize, as well as a number of technical and community colleges. The engineering degrees from UWI are currently accredited by the British Engineering Institutions, (other degrees awarded by institutions in the region are not internationally recognised) for a number of reasons. One of these is the historical (colonial) connection, but there is also the fact that the British were until recently the only ones who would accredit offshore degree programmes. This is limiting institutionally, but does give UWI graduates the advantage that they are treated as fully equivalent to graduates from British universities, and thus are internationally recognised.

Although this equivalence is considered very important, the process of accreditation is expensive and time consuming, and there is considerable philosophical debate as to the appropriateness of following the British system through all the changes that it has recently undergone, and is currently undergoing – e.g. the enhanced entry requirements and the post “A” Level four-year M.Eng degree - that are becoming necessary for full accreditation in the UK (Engineering Council 1997). Thus, a significant group of engineers in the region is pressing for change to a system that is more appropriate, such as, for example, that of the USA or Canada.

Also, although the objectivity and impartiality of external accreditation are recognized as being important, there are moves amongst local engineers to recognize the unique characteristics of the region and its needs by creating a regional engineering accreditation body. The examination of an establishment of such a body has been proposed (CCEO, 2001), and if appropriate, it should be implemented under the overview of the Council of Caribbean Engineering Organizations (CCEO). If established, this body should eventually be given the responsibility for accrediting all degree programmes in the engineering disciplines throughout the region.

The CCEO (2001) has also identified a number of critical issues that need to be addressed, principal amongst these are that the regional engineering accrediting body should:

1. be recognized internationally as competent and capable of judging the quality of degree programmes fairly and without favour.
2. be a signatory of the Washington Accord (Washington Accord 2003), which was established for:
 - Recognizing the substantial equivalency of accreditation systems of organizations holding signatory status, and the engineering education programs accredited by them.
 - Establishing that graduates of programs accredited by the accreditation organizations of each member nation are prepared to practice engineering at the entry leveland should enjoy reciprocity of recognition with other accrediting agencies worldwide.
3. keep up-to-date with emerging trends in the engineering profession internationally.

In addition to these accrediting function the body should also:

1. maintain a database of acceptable (accredited) degree awarding institutions outside the region as well as the database of accredited training programmes within the region.
2. determine how other academic qualifications, such as the Higher National Diploma (HND), should be treated in terms of equivalency.
3. establish an acceptable standard for Technical and Vocational Education and Training (TVET) and specifically for National and Regional Vocational Qualifications (NVQs and RVQs) within the Regional Qualifications

Framework.

The University Council of Jamaica (UCJ) already has overall responsibility for accreditation in that country, and has vested the responsibility for accrediting engineering qualifications with the professional engineering organizations, as is the practice internationally. No other country in CARICOM has the legal equivalent of the UCJ. In Trinidad & Tobago the National Institute of Higher Education, Research, Science and Technology (NIHERST) has a long-standing Committee for the Recognition of Degrees (CoRD), and recently the Government established an Interim Accreditation Committee. There is an institution in St. Kitts and Nevis with limited functions and The Bahamas, Barbados, Belize and Guyana have taken proposals to cabinet for the establishment of their national accreditation bodies. The professional engineering associations have begun work to rationalize the accreditation process, at the regional level through CCEO by initiating the establishment of a Caribbean Engineering Accreditation Council. A manual outlining the accreditation system was tabled at the CARICOM workshop on accreditation in May 2001 (CCEO, 2001).

It is recognized that many of the most successful contractors in the industry have little or no academic training or qualifications. Such individuals are not currently accepted into the professional associations, and so miss out on the status accorded by membership of such bodies. Thus there is a move to acknowledge their competence in terms of their experience, and through vocational qualifications. In the same way, there is no existing standard for measuring or accrediting the capabilities of sub-professionals, technicians or skilled artisans, tradesmen or craftsmen. This is a deficiency that needs to be addressed. The industry is dependent on these support staff for the effective and efficient running of its projects, so it is very important, as trade becomes more globalised, that means of measuring and recognizing the capabilities

of this group are established within the Community and between the Community and the rest of the world. However, accreditation of these skills is a difficult task, and for various reasons, not least of which is that of short-term feasibility, a start is being made at the professional level.

Currently the Council for Human and Social Development (COHSOD) of the CARICOM Secretariat is working to create a single regional Accreditation Board that will oversee the accreditation of all regional qualifications (CARICOM Secretariat 2002b), including those of the engineering bodies, and it is starting with all post-secondary educational qualifications. The Caribbean Engineering Accreditation Council will work under the overview of this regional Accreditation Board. The engineers have been proactive in ensuring that their views regarding the requirements of accreditation within the profession are fully represented, and that standards of recognition and equivalence across the region are established.

4. Harmonization of Regional Registration Legislation

For engineers to be described as Registered Engineers (RE or REng), or Professional Engineers (PE or PEng) they must be legally registered and licensed by some form of Engineering Council or Board of Engineering with local jurisdiction. This registration protects the profession from having unqualified people claiming to be engineers, and the general public from incompetence, negligence or ignorance in the engineers they employ. The requirements for licensing extend beyond those required for entry into the profession, particularly to the need for appropriate in-career experience and training. In order for the profession to be protected, and for that protection to be enforceable, appropriate legislation to protect the title 'engineer' must be passed. For there to be regional equivalency, it is necessary that similar legislation be enacted in each country.

Model legislation, according to internationally accepted standards, has

been forwarded by CCEO to its various constituent members, and in 1999 this model legislation was endorsed throughout the region, but it has not yet been widely enacted. Legislation exists in Barbados, Belize, Jamaica, St Lucia and Trinidad & Tobago, and is under revision, where necessary, to comply with the essential features of the model. Several other states (most notably the Bahamas, Grenada and Guyana) have bills in various stages of the legislative process. It is a policy imperative that this process should be advanced.

Once there is a common regional legislative framework defining and protecting the profession there will be a sounder basis for true regionalization of the profession. The basis for registration and licensing will involve not only the terms and conditions for entry into the profession, but also such issues as the continuing requirement for upgrading and updating of skills through a Continuing Professional Development (CPD) programme. The system should allow for reciprocal recognition of similarly registered and licensed professionals from other countries or regions. The engineering fraternity is the only profession in CARICOM that has prepared regional instruments such as an accreditation system and model legislation. In policy terms, the governments of the region should support the industry by enacting the legislation and pressing ahead with the accreditation system.

5. Mutual Recognition of Qualifications And Reciprocity

The principles of mutual recognition and reciprocity will guide these negotiations under the GATS. In effect this means that 'we will deal with others as others deal with us'. With the increasing internationalization of bidding for construction contracts, the most immediate concern for the industry is with the freedom of those involved to work on equal terms in one another's countries. Thus, if, when CARICOM becomes a part of the FTAA, it is right for a CARICOM based engineer to have to register with the Professional Institution(s) in Canada, for

example, in order to work there, then it is right that a Canadian engineer should have to register with the local Professional Association(s) when working within CARICOM.

With the regionalisation of accreditation and standardizing of the requirements for professional registration, the mutual recognition of engineers from within the region by countries in the region should be a simple and straightforward exercise, requiring minimal documentation and perhaps only the payment of a small fee. Professionals in the region felt that a similar facility should be extended to professionals from outside the region (providing reciprocity with their home country exists), but that there should not be a 'single door' into the region, by which a foreign engineer could enter the region by registering in one country within CARICOM, and then being allowed to have automatic access to the other countries. Just as the different provinces in Canada or individual states in the USA require separate registration of engineers, the engineering community feels strongly that there would be a need for a foreign engineer to register in any territory that he/she wishes to work in.

Provided there are suitable international agencies that can ensure equivalence of professional registration standards, there should be no problems in agreeing to mutual recognition and reciprocity. The Washington Accord (2003a) is one agency that does monitor such standards so that signatories should be prepared to accept one another's accredited academic qualifications.

6. Free Movement of Natural People

The underlying logic behind the liberalisation of the movement of people throughout the region is that economic efficiency (and social welfare) would be better served if labour could move freely to areas where job opportunities exist. If there are trade imbalances between countries, then geographical movement of labour to the trade-surplus countries, or capital to the

trade-deficit countries, should help to eradicate the differences, and at the same time, alleviate the tensions due to the imbalances and ease unemployment problems. As Bourne writes, 'To put it bluntly, barriers to the inter-regional mobility of labour and capital lower factor productivity, frustrate the emergence of scale economies and retard international competitiveness... The policy issue is how to facilitate such equilibrating movements of capital and labour, especially in the face of structural and natural resource disparities within the CSME, and how to minimize the magnitude of the labour transfers.' (Bourne 2002)

Construction involves relatively large numbers of workers at all levels of skill, and thus it is a key industry with regard to the 'free movement of natural people'. Statistics regarding the movement of workers related to the industry are not readily available (even work permit figures do not distinguish between sectors), but one might expect that there would have been relatively large numbers of construction-related workers moving between countries in an open market like that in the European Union especially between countries with significant economic disparities between regions, but this did not occur (WTO, 2003), except on a temporary basis (Janssen 2000)³. Because of the type of work involved, particularly the fact that it is predominantly location specific (i.e. has to be carried out on site), the majority of construction services supplied by foreign firms are either supplied by their commercial presence in the 'foreign' country or through the presence of their staff as 'natural persons'. Either way, within CARICOM, it appears that the 'persons' involved are normally at the managerial or professional level and that the majority of the labour required is sourced locally. There are very few exceptions where firms (generally from

the Far East) have imported their whole workforce - down to the unskilled labour.

One of the principal provisions of the *Revised Treaty of Chaguaramas Establishing the Caribbean Community* (CARICOM Secretariat 2001b) is that it will work towards the 'free movement of natural people' between the member countries, even if these are initially mainly intra-corporate transfers (Committee on Trade and Development 1994). In effect this will mean, eventually, that nationals and residents of the region will be able to move between the countries of the Community without the need for passports, visas, work permits or any of the other impediments to easy movement and employment. This may have a significant impact on the regionalization of the construction industry.

Construction requires not only the professional engineers, architects and surveyors, but also a whole range of sub-professionals, tradesmen, artisans and other persons who undertake the work involved. The contractors, who actually do the physical construction work, usually have a core of skilled people working for them, with whom they have an established understanding. Ideally, these persons should be able to move with the contractor onto any job he/she may undertake, as this would enable the firm to maintain its efficiency. Thus, in principle, the industry should benefit economically from the enhanced freedom of movement of people as this is progressively liberalized (though professionals in the region suggest that the marginal cost of moving a person rather than employing a local is too high and so they will tend to employ local labour rather than move an established employee).

It should be noted that there is also a down side to the 'free movement' policy. The construction industry is a heavy user of unskilled labour, usually on a short-term, project basis. These workers are drawn from a pool of labour that tends to be temporarily unemployed, due to 'structural' factors (i.e. with skills that are no longer economic) or being in transition from declining industries (like agriculture). Work

³ Janssen both supports and undermines this conjecture by recognizing that there has been an 'increase in labour mobility in the construction sector' but then goes on to say that 'studies... invariably confirm that labour is predominantly recruited in the locality where the construction establishments are located or projects carried out.'

on construction projects provides a valuable local source of such short-term employment, especially for the disadvantaged and unskilled, and thereby fulfills a very valuable socio-economic function. If contracting firms from abroad bring their whole workforce with them, including the relatively unskilled, it will deny the locally unemployed from having even this limited opportunity of temporary work. Local communities in several of the CARICOM countries have aired complaints about contractors bringing their entire workforce with them, especially those with very dubious skills⁴. A number of professionals commented during the survey that some foreign contractors have used indentured-type labour (some even claimed that convicts have been used) on jobs in the CARICOM region, in order to minimise costs. There is no doubt that their presence is noted and resented (and in some cases feared) locally. The professionals also expressed concern that these foreign contractors may also be treating these workers in ways that are not legally acceptable within the countries of CARICOM. For example, their pay is almost certainly below the minimum wage standards locally, and their working conditions and accommodation are below what would normally be considered acceptable within the region. This lowers the company's overhead charges and makes them highly competitive, though unfairly so, in the view of local engineers. This goes against the Community's stated aim (CARICOM Secretariat 2001b) of ensuring labour standards are equitable and regularized across the region. This is not as simple as it may sound as Nike's experience in making shoes in Indonesia demonstrates (Kempley 1998). As WTO Director-General Renato Ruggiero asked in 1998, 'Can we balance the need for sustainable development with the need to provide millions with a decent standard of

living? Can we advance shared labour standards among very different economies and societies? Interdependence means that we must find answers to all of these interconnected issues in a more coherent and balanced way' (Ruggiero 1998).

In addition to this, there are concerns that the sudden influx of a large itinerant workforce into an area with limited socio-economic infrastructure will have damaging effects on that area. As Summers and Lang (1976) write 'More often the industry clearly gains while having a negligible or even negative effect on the host community over the long run.' and Waterhouse (1991) adds 'Traffic congestion, air pollution, the need for new schools or public safety services are all possible downsides to the jobs and taxes upside'. Thus, while it may be beneficial to the firm in terms of enhanced efficiency for a team to travel and work together, it may not be politically or socially acceptable in the CARICOM region that has high unemployment and a fairly literate and vocal labour pool. In the region there have already been protests by local residents to the wide scale 'importation' of non-professional and non-supervisory labour from outside the area, particularly on publicly funded projects.

Firms from within the region have indicated (e.g. Personal communication 2001) that they would be very unlikely to carry with them the entire workforce needed onto a project within the region, unless there were very special circumstances. Thus, as far as local firms are concerned, a restriction on 'free movement' so as to prevent this sort of exercise, on socio-economic grounds, would be justifiable and welcome and would not significantly affect them. In other words, it is unlikely that the construction industry would view with equanimity the policy of allowing unrestricted movement of all 'natural persons', certainly not at this time. It is, anyway, unlikely to become a real possibility in the near future – especially with the wide economic differences between countries in the region which have caused the poor

⁴ Work permit requirements sometimes stipulate that only skilled workers may be allowed entry, and firms have been known to get around this by describing their established employees as being more skilled than they are in fact.

countries like Guyana and Haiti to be concerned about a more rapid 'brain-drain', and richer countries like Barbados to fear an overwhelming influx of 'economic refugees'.

7. Market Access (Gats Article Xvi)

The CSME is intended to provide conditions in which nationals can access the "collective resources of the Region on a non-discriminatory basis" according to the introduction to *Protocol 2 Amending the Treaty Establishing the Caribbean Community* (CARICOM Secretariat 2001a). The intent behind provisions for market access are that firms from the smaller economies should be given the opportunity to expand, by being allowed access to other markets than their own, on the same terms and conditions as firms from there. (In practice, currently, the economic power of the large countries allows them to dictate the terms and conditions under which trade takes place, and naturally enough, these are designed to favour their own firms – the objective of this provision of the GATS is to 'level' this particular 'playing field').

In the context of the construction industry this 'market access' would mean giving consultants and contractors from the smaller and less developed countries access to project opportunities in the larger and more developed countries. This sounds fine and good, however, as has been noted previously, in practice it is very unlikely that they would or could grasp the opportunity. Their limited size and shortage of resources (both human and financial) would make it virtually impossible for the relatively small local firms to contemplate working outside their home region (or even their home country, very often), at least in the short term.

Thus 'Market Access' to opportunities outside their home countries is not an issue for smaller local firms, as they have neither the inclination nor the capacity to look for work there. At present it is not much of an issue either for larger firms within the region, as they tend to see the region as their 'home territory' and generally

see no need currently to look further afield. These firms are confident of their proven abilities and indicated during the survey that they are more concerned, at this time, with unfair competition at home than being given access to extra-regional markets.

Although these local 'larger' contractors and consultants are relatively small by international standards, they are big enough to bid on most, if not all, of the major projects that are internationally tendered in the region. However, they are often excluded even from consideration by the pre-qualification criteria that are used by the lending agencies. These criteria tend strongly to favour foreign firms, by, for example, giving extra weighting points for large size even when this may not be relevant to the job at hand.

Another problem facing local firms is that foreign contractors or consultants may take quite small jobs in the region in order to get a 'foothold' in this new market, and that they may take those jobs at 'cost', or even at a loss, for strategic reasons. It is very hard for local firms to 'compete' on these terms as it is a form of 'dumping' via underpricing and local professionals were adamant that it should not be tolerated in the construction industry, just as it is not tolerated in manufacturing because of the damage it causes. However, the local professionals did acknowledge that it is often very difficult to identify in advance and prevent in practice.

In policy terms the local engineers want the region to be one big open market for firms from within the region, but they do not want the region opened up entirely to foreign firms from outside the region in exchange for foreign markets being opened up to them, because they fear that they would gain nothing and stand to lose a great deal. Many countries around the world reserve projects below a certain size for the local construction industry and engineers in CARICOM are strongly in favour of a similar policy initiative in the Caribbean. The upper limits of the values of the projects that the professionals feel should be reserved in this way are still under discussion, but it has

been suggested (Imbert et al, 2002) that contracts should be reserved up to the values of:

- Construction contracts – US\$20M
- Consulting contracts – US\$3M

These values were based on the belief that they were small enough to enable effective competitive bidding amongst local contractors, but large enough to enable local firms to survive and grow.

8. Subsidies (Gats Article Xv)

Most industries in countries within the larger trading blocs receive hidden subsidies that help them compete abroad. The European and American agricultural subsidies are enormous and massively distort the world trade in agricultural commodities. Butter mountains and wine lakes are well known (inconvenient) side effects of these policies. Although the actual forms of the subsidies and inducements received by the construction industry are less well known, there is no doubt that they exist.

Charles Ram [Lewis and Imbert 2002] undertook a preliminary investigation of such support, subsidies and incentives affecting the construction industry in Guyana. He notes that there are differences throughout the region in the policy regarding taxation and subsidies. In Guyana contractors in the residential housing sector enjoy incentives and concessions that are not available in the commercial sector. Major projects financed by international agencies are often exempt from all external taxes and duties, as well as generous local tax holidays and capital allowances to manufacturing and processing activities.

The British government, for example, supports the overseas operations of the construction sector through financial and other aid from the Export Credits Guarantee Department (ECGD). This is of great concern to firms in Developing countries because they do not have the same facility available. This aid is critical in many areas, including the marketing of their skills abroad, the insurance of overseas operations, the guaranteeing of bank loans,

and the provision of bond coverage. In this latter regard, contractors from CARICOM feel they are at a particular disadvantage because the commercial bonding available locally is both inadequate and expensive (NCE International 79)). This aid enhances the competitiveness of British firms in international markets and the same, of course applies to other developed countries which operate similar schemes.

Quite apart from such home-country subsidies, the local countries in CARICOM also offer inducements to foreign firms that work against the interests of their own nationals. One typical form of such a local subsidy to foreign firms is in granting them tax concessions. One such concession involves the waiving of import duty on machinery and equipment brought into the country by a foreign contracting firm for a construction project. This reduces the costs to the contractor early in the life of the project, and the duty only becomes payable if the firm eventually sells the equipment after the project. Local firms do not enjoy the same benefits. A similar form of financial discrimination in favour of foreign contractors occurs where local contractors have to pay duties (e.g. a consumption tax) on materials for their projects, while foreign contractors are exempted.

At the policy level, there is a need for a thorough examination of all the concessions that exist, in terms of financial support, subsidies and incentives from the local and home countries of the large international firms. Essentially, subsidies work against free competition and are supposed to be expressly forbidden under GATS.

9. Right of Establishment (Protocol 2, Articles 35 B And C)

There are four distinct "modes" of trade defined in the GATS [Article 1], 'specifically, services supplied *from* the territory of one Member to the territory of another (cross-border); services supplied *in* the territory of one Member to the consumers of another (for example, tourism); services provided through branches of entities of one party in

the territory of another (for example, a branch of a foreign bank); and services provided by nationals of one party in the territory of another (for example, construction teams).' (Committee on Trade and Development 1994)

9.1 Mode 1 - Cross Border Supply

Cross border supply consists of the supply of a service from the territory of member Country A into the territory of member Country B without actually being present in Country B. In the past the cross-border supply of construction services between the Caribbean countries was assumed to be practically non-existent because it was not technically feasible (i.e., construction services cannot be supplied without the movement of service providers). However, it is now recognized that some services, such as blue-print designing, and internet based project monitoring and management may be 'traded' over telecommunication infrastructure. As electronic commerce develops there are likely to be some further changes in the way that construction services are supplied.

It is also possible that, for example, a consulting engineer in Trinidad may carry out a design for a client in Guyana without ever having an office or representative in that country, simply e-mailing the final product. In principle this may appear fine, however, in practice there are a number of specific problems particularly in relation to service providers from outside the region. For example, there is a strong belief that there is a separate and distinctive Caribbean aesthetic that is expressed in the built environment. The architectural profession in some of the CARICOM countries feels strongly that this aesthetic should be preserved by restricting the practice of architectural design to firms that are established within the region, or foreign firms that are at least involved in a joint venture with local firm. This would have the specific intention of preventing an architect from 'sitting in an office in London' and designing a significant structure for an environment with which he/she is totally

unfamiliar. There are some philosophical difficulties with this position however, and some of the most famous international architects, have indicated that architecture should not be a closed system within any country, but should be open to new influences. For example Santiago Calatras wrote (Scanlon 2001), "...God protect me, at least, from defending national ideals. Our profession should be devoted to a universal understanding of man. If there is a humanism in our profession, it isn't based on nations. It's the basic humanism of the everyman." That having been said however, the local profession still remains adamant that local culture should be respected in the design aesthetic, and they are insistent that government policy should reflect this.

A similar situation exists within the engineering community, where design parameters are affected by factors like the locally available materials, the culture, work ethic, climate and seismicity that may not be familiar to the foreign engineer. These factors could significantly affect the design, the effectiveness and efficiency of a structure, which would be compromised if these issues were overlooked. An example of this involves an industrialized building system that was 'imported' into Trinidad to produce low cost houses. The house designs were of thin, precast concrete panel walls and roofs that were welded together and then finished. The houses that were constructed using this system were quite cheap, but they were also uninhabitable during the day, as the tropical sun turned them into pressure cookers for anyone venturing inside. The system designer hadn't taken this into account. In policy terms, local professionals feel that exposure of foreign professionals to the local conditions and environment by having a local establishment, or some form of joint-venture arrangement would go a long way to overcoming these reservations.

It is not thought that there are any significant limitations on the provision of construction services via cross-border trade, although some countries do limit certain

types of construction undertaken from barges, which are protected by cabotage restrictions (Lewis and Imbert 2002).

9.2 Mode 2 - Consumption Abroad

Consumption abroad consists of the supply of a service by a service supplier of member Country A to a "service consumer" of member Country B who is present in Country A. An example of this could be a contractor from Trinidad & Tobago who builds a structure in Trinidad for a Barbadian client, like, perhaps the recent construction by Trinidadian contractors of the Barbados Mutual Life Assurance Society (recently renamed Sagicor Life Inc.) building in Port of Spain, Trinidad.

A significant number of firms, especially in insurance, banking, distribution and manufacturing, have branches, subsidiaries or other types of holdings in more than one country in the region. It is anticipated that this will become a more common occurrence, especially as more firms regionalize their operations. It is also expected that, increasingly, firms from outside the region (but operating in the region) will employ the local construction industry to undertake their building projects, rather than having these designed and/or built by firms from their home countries. There is a significant move in this direction in Trinidad and Tobago in particular, where the oil and gas sector, which is dominated by major international firms, is enjoying an unprecedented boom that is leading to a very substantial demand for construction services. There has been an increasing tendency for them to use the local construction industry, for both cost minimization and the socio-political reasons that it creates local employment, forges links with the local community and reflects well on them. The spin-off benefit for the local industry is that its capabilities are also starting to be recognized. In policy terms the local construction industry just wants more of the same – and if there is any pressure that can be applied, or any incentives that can be given to encourage foreign firms to patronize the local industry,

then these should be investigated promptly.

9.3 Mode 3 - Commercial Presence

Commercial presence consists of the supply of service by a supplier of member Country A to service consumers in the territory of member Country B, where A's service supplier is deemed to be "commercially present" in Country B. An example of this could be a Barbadian contractor who owns a company, or has a representative office or branch in Grenada, or participates in a partnership or joint venture with a firm there, in order to provide services to Grenadian clients. Currently this tends to be a popular approach amongst firms within the region who maintain representation in other countries, which may either operate normally or only be activated when specific projects require them. For example some of the larger contractors from T&T have well-established relationships with consultants and contractors in Guyana that are only set in operation when a significant project comes up in Guyana.

By and large, the countries of CARICOM have been at pains to try to attract firms to establish a 'commercial presence' in their home territory, so there are few if any barriers, and those that do exist are under review for removal (Ifill, 2002). As regionalisation progresses, it is expected that firms will increasingly set up subsidiaries in other countries where they work, like the local operations of Keir, Carillion and Teamwork. This approach has the double benefit of being politically correct (it's a *local* company) and of limiting the parent company's exposure (if things go wrong).

The only restrictions on commercial presence appear to be those where non-resident construction contractors are required to submit a deposit or post a bond before they can undertake work in a specific country, or where there are residency or work-permit requirements, or, as in cases like Antigua and Barbuda, there are across-the-board restrictions on the ownership of assets, particularly real property. The policy recommendations of the construction

professionals are simply to continue the good work of removing restrictions especially for local firms.

9.4 Mode 4 - Presence of Natural Persons

Presence of natural persons consists of the supply of a service by a supplier of member Country A to service consumers in the territory of member Country B by way of the presence in Country B of people who are themselves service suppliers of Country A. An example of this could be a Barbadian consultant who travels to Jamaica to provide design services to the Jamaican construction sector.

Most of the countries in CARICOM operate a system of work-permits to restrict the ability of individuals to work there. This system is gradually being removed for CARICOM nationals and has already been waived for a select group of sportsmen, media personnel, performing artistes, and graduates of The University of the West Indies, who can now work in other territories provided they have a Certificate of Recognition that is issued by their respective Ministries of Foreign Affairs. The intention eventually is that there should be free movement of any 'natural person' within the region, though there are currently quite strong objections on various grounds (e.g. an enhanced 'brain drain', or a flood of 'economic refugees'), so it is unlikely that 'free movement' will extend to the general public for some time yet. In policy terms, the construction industry would like to see 'free movement' extended to those sub-professionals, draftsmen, tradesmen, craftsmen and technicians from within the region who are essential to the efficient work of a contractor or consultant.

10. Restrictions on the Provision of Services

The fundamental purpose of Article 36 of Protocol 2 (CARICOM Secretariat 2001a) is that there should be no restrictions on the provision of services based on their origin. In other words, service providers from anywhere within the community will be

treated equally. Existing restrictions on the provisions of service will need either to be removed or to be harmonized across the Community, a process that was agreed to in 1997 but has been only effectively under way since 2001. Again the construction industry has no specific policy recommendations, except perhaps to rationalize the requirements for local registration of professionals.

11. Policy Recommendations

A number of policy issues arose out of the study of the construction industry in the region (Lewis & Imbert, 2002), amongst which the following were highlighted:

- There is a need for a common regional legislative framework defining and protecting the engineering profession and the public, and once this exists there will be a sounder basis for true regionalization of the profession. Significant progress has already been made towards achieving this, but the work needs to continue apace.
- There is need for an accreditation system that is attuned to the characteristics and needs of the profession in the region, and that has international standing. Much of the groundwork has been done for the establishment of a Caribbean Engineering Accreditation Council. It is expected to become part of the broader CARICOM accreditation system and gain international recognition through membership in the Washington Accord, the mutual recognition agreement on engineering qualifications. Again the ongoing initiative needs to be supported, and speeded up.
- There is a need for comparable legislation for the registration of professional engineers in each of the member states of CARICOM. This process is under way and should be encouraged in those countries that are lagging behind.

- In general terms the firms in the engineering industry have no problem with the existence of free and fair competition within the region. They would welcome it. They are confident of their proven abilities and believe they can compete on price, but are more concerned, at this time, with unfair competition at home than access to extra-regional markets. As in other parts of the world, however, they would like smaller contracts to be set-aside for local (regional) contractors and consultants.
- There should be a focus – particularly within the public sector – on ensuring fair competition by repackaging work into contracts of an appropriate size, and by the removal of any biases that may exist in selection of consultants or contractors, as well as by eliminating or equalizing the subsidies and other financial inducements that are available.
- The prequalification criteria that are used by the lending agencies tend to unfairly favour larger foreign firms. These criteria should be reexamined with a view to rationalising their weightings to take more account of local conditions.
- There are some reservations about foreign firms working locally particularly when they adopt a 'cross border' mode of operation – with local professionals being unhappy at the idea of foreign firms designing and planning works for the region when they have little or no knowledge of the region - its culture, climate, geography or its geology. Most of these reservations would be removed if the firms were required to have a physical presence (an establishment), or a meaningful association with an organisation from the region.

12. Conclusions

The General Agreement on Trade in Services is an undertaking by governments that they will remove restrictions on free trade and will generally liberalise the terms and conditions under which they interact and do business with one another. However, in order for this policy initiative to be implemented, there are a number of legal and operational measures that must be put in place. These should be designed to try to ensure the effective functioning of a single market and economy in CARICOM and to enhance the competitiveness of the region's service providers before any commitment is made to entering a broader trading bloc such as the Free Trade Area of the Americas (FTAA).

Acknowledgements: Canadian International Development Agency (CIDA) for funding a regional study of the construction industry in CARICOM; Caribbean Regional Negotiating Machinery (CRNM), for commissioning the study; The Council of Caribbean Engineering Organizations (CCEO) and its Constituent Members; Members of the Project Team: Eng. Grenville Phillips II of the Barbados Association of Professional Engineers (BAPE), Eng. Egbert Louis, representing the engineering associations in the Eastern Caribbean, Eng. Melvyn Sankies of the Guyana Association of Professional Engineers (GAPE), Eng. Harold Nembhard of the Jamaica Institution of Engineers (JIE); and Eng. Carlyle Glean of the Grenada Institution of Professional Engineers (GIPE).

References

- [1] Boume, Compton (2002), Regional economic performance and prospects, *Caribbean Investor and the CAIC Times*, Vol 1, No 4, Aug/Sept. pp 12-15; also see the web site at www.thecaribbeaninvestor.com
- [2] CARICOM Secretariat (2001a), *Programmes for Removal of Restrictions - Protocol 2*, P O Box

- 10827, Georgetown, Guyana.
- [3] CARICOM Secretariat (2001b), *Revised Treaty of Chaguaramas Establishing the Caribbean Community including the CARICOM Single Market and Economy*, P O Box 10827, Georgetown, Guyana
- [4] CARICOM Secretariat (2002a), *National Accounts Digest, 1990-1999*, P.O. Box 10827, Georgetown, Guyana. (see also web page at www.caricom.org)
- [5] CARICOM Secretariat (2002b), *Draft document on the CARICOM Accreditation Agency*, P O Box 10827, Georgetown, Guyana or *COHSOD Update*, Vol 1, Issue 1, May 2001 available at <http://www.caricom.org/archives/cohsod/cohsodindex.htm>
- [6] Committee on Trade and Development (1994), *Developing Countries and the Uruguay Round: An Overview*, WTO, http://www.wto.org/english/docs_e/legal_e/ldc2_512.htm
- [7] Council of Caribbean Engineers Organizations (2001) *Manual of Accreditation Procedures, Caribbean Engineering Accreditation Council*, CCEO, c/o Engineering Institute, The University of the West Indies, St. Augustine, Trinidad and Tobago.
- [8] Engineering Council (1997), *Standards and Routes to Registration (SARTOR 3)*, 3rd Edition, 10 Maltravers Street, London, WC2R 3ER, England.
- [9] Ifill, Sean (2002), Operationalising Caribbean services industries, *Caribbean Investor and the CAIC Times*, Vol 1, No 4, Aug/Sept. pp 46-47; also see the web site at www.thecaribbeaninvestor.com
- [10] Imbert, Clement, Michael Lewis and Egbert Louis (2002), Globalisation and the Caribbean Construction Sector: "CARICOM Construction and Installation Services Sector" Study, *Insight, Engineering & Development Perspectives*, Issue 2, Jul-Dec, pp 25-27
- [11] Janssen, Jörn, 2000, The European construction industry and its competitiveness: a construct of the European Commission, *Construction Management and Economics*, Vol 18, pp711-720.
- [12] Kempley, Rita (1998), Michael Moore, Sticking Out Like a Sore Thumb, *International Herald Tribune*, April 23, review of the movie "The Big One" by Michael Moore, Miramax Home Entertainment, October 13 1998
- [13] Lewis, T. M. and C. A. C. Imbert (2002), *CARICOM Construction and Installation Services Sector – Elements for Competitive Strategies*. A report done for the Regional Negotiating Machinery (RNM) of the Caribbean Community (CARICOM) Secretariat, sponsored by the Canadian International Development Agency (CIDA).
- [14] Lewis, T. M. (2002), Competitiveness – The Key To Sustainability In The Caribbean Construction Industry, *Proc. CIB W107*, Stellenbosch, South Africa, Nov.
- [15] NCE International (1979), Contractors take cover..., *NCE international*, April, pp44-45.
- [16] Personal communication 2001, Mr Emile Elias, contractor.

- [17] Ruggiero, Renato (1998), *Beyond the Financial Crisis*, address to the Council on Foreign Relations by WTO Director-General, 5 October 1998, New York, also see web site <http://www.wto.org/english/>
- [18] Scanlon, Jessie, (2001), Suspended Animation, *Wired*, Vol 9.09, Sept.
- [19] Summers, Gene F. and Jean M. Lang (1976), *Bringing Jobs to People: Does It Pay?*, *Small Town*, 7, September: 4-11, (cited in Waterhouse 1991).
- [20] Washington Accord (2003), *Washington Accord, A Multinational Agreement Signed In 1989*, See At <http://www.washingtonaccord.org>
- [21] Washington Accord (2003), *Recognition Of Equivalency Of Accredited Engineering Education Programs Leading To The Engineering Degree*, Revised 2004. Available at: <http://www.washingtonaccord.org/washingtonaccordagreement.html>
- [22] Waterhouse, Mark D. (1991), *Building Viable Communities - The Essence of Economic Development*, *Economic Development Review*, Summer, Vol. 9 Issue 3, p14-23
- [23] WTO, (2002), *Movement of natural persons (mode 4) under the GATS*, Joint WTO-World Bank Symposium, Geneva, 11-12 April 2002; see also at web site http://www.wto.org/english/tratop_e/serv_e/symp_mov_natur_perso_apr102_e.htm