Programmes for the Removal of Restrictions to Movement of Services, Capital and the Rights of Establishment in CARICOM

By

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March 2004
Acknowledgements

This paper was produced for the CARICOM Secretariat in July 2001 and provided important background information for CARICOM Member States in preparing their schedules for the removal of restrictions to the movement of services, the right of establishment and the movement of capital. Minor modifications and adjustments have been made for the 5th Annual Conference of the SALISES. We would like to thank the CARICOM Secretariat for giving us the permission to present this paper and would like to thank them for their assistance and guidance in putting it together. We would also like to thank the Member States of CARICOM for the support they provided in making data and information available to complete the research.
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Introduction, main findings, concerns and recommendations

Introduction
In 1989 the members of CARICOM decided to create the CARICOM Single Market and Economy (CSME) which amongst other things, would allow the free trading of goods and allow nationals of Member States to establish businesses, provide services and transfer capital throughout CARICOM with no discriminatory restrictions. A series of Protocols amending the Treaty of Chaguaramas, which established CARICOM in 1973, have been developed to facilitate and guide the formation of the CSME. Chapter 3 of the Revised Treaty outlines the guidelines for the rights of establishment, the provision of services and the movement of capital.

For Member States to meet the requirements of Chapter 3 of the Revised Treaty they are required to remove restrictions that inhibit in any way, the rights of establishment, the provision of services and the movement of capital throughout CARICOM. Chapter 3 of the Revised Treaty explains that a programme for the removal of restrictions should be put in place within CARICOM. Chapter 3 of the Revised Treaty requires removal of all restrictions to the rights of establishment, the provision of services and the movement of capital; this has been carried out by Member States with guidance from the CARICOM Secretariat. It should be noted that Chapter 7 of the Revised Treaty, which addresses issues relating to Disadvantaged Countries, Regions and Sectors, deals with measures relating to Services and the Right of Establishment. In both cases Chapter 7 of the Revised Treaty explains that the COTED shall take appropriate action to ensure that, in establishing the programme for the removal of restrictions by Member States, the peculiar economic vulnerability of disadvantaged countries in the Community is taken into account. The COTED should determine a list of economic activities for which national treatment does not have to be granted for a period of time, as well as the manner in which such restrictions should be removed.

The next major step in the process is the negotiation of programmes for the removal of restrictions in order to fulfil obligations assumed under Chapter 3 of the Revised Treaty. This assignment is intended to tie together the main elements of the notifications already provided by Member States and combine this with other relevant factors to propose realistic time frames for the removal of restrictions. The outputs of the assignment should assist Member states in the negotiation of programmes for the removal of their restrictions.

1 Findings are also included after each section
2 It is worth noting that CARICOM’s efforts to establish the CSME are consistent with developments with respect to the WTO and the FTAA. Article XIX of the General Agreement on Trade in Services (GATS) expresses that Members shall enter into successive rounds of negotiations, beginning not later than five years from the date of entry into force of the WTO Agreement. The FTAA will include additional commitments to the GATS and is due to be implemented in early 2005. CARICOM is also negotiating free trade areas in services with Cuba, the Dominican Republic and Canada; it is therefore imperative that CARICOM completes the negotiations between its own Members before dealing with these extra-regional agreements.
3 This report should allow the COTED to work along with the relevant states to provide a list of activities for special and differential treatment, if necessary. The Protocol itself does not specify such activities.
Main Findings

Main Findings on Specific Restrictions

1. In the analysis there are cases where a “necessary” regulation is identified as a restriction and might in fact restrict trade in services by one mode or the other. For example, for pharmaceutical services there may be a requirement in the legislation for licensing before one can operate within a country. This is a necessary regulation and should be retained to protect the public – it does not, however, restrict the rights to establishment. Yet, it becomes a restriction to a qualified pharmacist/service provider wishing to move as a natural person and provide the (pharmaceutical) service in the other state. This effective restriction needs to be dealt with by the provision of regional licences or the mutual acceptance of licences from other states. In the analysis, many of the services where N/A has been placed in the time frame column is to deal with the situation where a regulation is necessary so should not be removed but is restrictive to the movement of natural persons. The solution here is at the regional level in terms of setting standards and providing accreditation.

2. Over 350 different restrictions or seeming restrictions were analyzed in the spreadsheets that form the basis of this study.

3. The only UNCPC 3-digit categories in which restrictions were not identified for at least one member state were the following:
   - Transportation services via space (UNCPC 663)
   - Interdisciplinary research and experimental development services (UNCPC 813)
   - Specialty design services (UNCPC 834)
   - Advertising services (UNCPC 836)
   - Market research and public opinion polling service (UNCPC 837)
   - Photographic services and photography processing services (UNCPC 838)
   - Other professional, scientific and technical services
   - Cleaning services (UNCPC 853)
   - Packaging services (UNCPC 854)
   - Installation services (other than construction (UNCPC 865)
   - Sanitation and similar services (UNCPC 943)
   - Other environmental protection services (UNCPC 949)
   - Washing, cleaning and dyeing services (UNCPC 971)

4. In some areas like accounting, insurance, telecommunications and medical services there were numerous restrictions across all countries

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4 It should be noted that some of the findings from the draft report were revised for this report based on issues addressed in the first working group session convened by the CARICOM Secretariat in Barbados in May 2001.
5 In this report the focus is only on restrictions affecting CARICOM residents. However, it must be noted that in most cases legal or socioeconomic restrictions do not distinguish between CARICOM nationals and non-CARICOM nationals. However, there are some specific cases where the position of CARICOM nationals is clearly stated.
6 In all other UNCPC 3-digit categories there was at least one Member State that notified a restriction.
5. Most restrictions affected the rights of establishment (300 cases), followed by the movement of natural persons (279 cases), followed by cross border trade (80 cases) followed by consumer moving to supplier (16). However there were variations within countries.

6. There were 147 cases out of 358 where the specific restrictions were either identified as being removable immediately or in the short run. This suggests that 41% of the services that are restricted can be freed up easily well within two years. There were a further 53 cases (15%) where the consultants felt the restriction was not discriminatory and did not need to be removed. A further 33 or just about 9% of restrictions can be removed in the short to medium run or within two to three years.

7. No restrictions were identified for any public utility company or the insurance industry in St. Kitts/Nevis. However, the St. Kitts/Nevis delegate to the first working group meeting in Barbados (May 2-5, 2001) indicated that restrictions should be included for all the utilities and wished to examine the situation with respect to insurance. Jamaica also requested that its postal services be included because restrictions were in place.

8. In terms of prioritizing sectors for removal of restrictions, the first working group meeting in Barbados (May 2-5, 2001) decided that the focus should be initially placed on services falling under section 8 of the UNCPC. This was based on the fact that these activities deal directly with production and the earning of foreign exchange, which is also the main focus of Chapter 3 of the Revised Treaty. The Consultant recommends that issues relating to intellectual property should also receive priority treatment given their inherent complexity as well as their importance under the WTO.

Main Findings on Horizontal Restrictions
1. 14 different types of horizontal restrictions were finally determined following the Consultants’ analyses and discussions at the first working group meeting.
2. The work permit and company registration requirements apply across the board. Company registration is required for all companies being established in all territories, however (with the exception of Jamaica) foreign companies require additional procedures for registration.
3. The rights of establishment is the main delivery mode affected by horizontal restrictions followed by the movement of natural persons.
4. Restrictions relating to Exchange controls, Financial loan services, International business services and Offshore Sector are financial in nature and mainly affect cross border trade. These are the restrictions that affect the free movement of capital in the region.
5. The sensitivity of the alien landholding restrictions makes the removal a longer-term issue because of likely local resistance and political consequences. There are also real social and economic issues (property rights and externalities) to take into consideration.
6. Company registration is not discriminatory per se in that it is required by all; the extra requirements for non-nationals create the restriction. Furthermore, it does restrict the
movement of natural persons and would slow down the time required by a CARICOM national to set up and start operating in another territory. It could also be quite expensive in terms of legal and registration costs to set up in several regional territories. A regional registrar of companies may be a solution to the problem; however, this is an issue to be addressed, as part of regulatory reforms needed to facilitate integration.

7. Exchange controls should be removed in the short run.

Main Findings on Restrictions on the Movement of Capital

1. Exchange controls are found in Barbados, Belize and all OECS countries. However, the controls tend not to discriminate against non-nationals and usually require permission to be sought from the relevant authorities for movement of sums over a certain amount (EC$250,000 in the OECS). For the purpose of safeguarding against money laundering and other international illegal activities, these controls are seen as necessary but they do not appear to discriminate. Exchange controls may hinder the movement of capital as it relates to the movement of natural persons and cross border trade as the seeking of permission may not always be convenient.

2. The Alien Landholding legislation restricts the movement of capital for non-nationals in the countries concerned because it allows for the restriction or prohibition of the transfer of shares to non-citizens. It also restricts the creation of trusts in favour of non-nationals. This legislation is very sensitive but needs to be looked at carefully, especially as it relates to the ownership of corporate share holdings as opposed to land ownership.

3. The foreign investment horizontal restriction in Trinidad and Tobago affects the free movement of capital, though arguably tangentially. It does so to the extent that it restricts a foreign investor (which includes only Jamaicans and Barbadians in CARICOM) to acquiring no more than 30% of the shares in a public company without a licence. This licence requirement does not apply to nationals.

4. The financial loan services restriction in Dominica also restricts the free movement of capital to the extent that the Ministry of finance must approve a loan to a non-citizen even if the individual is living in Dominica. This is clearly in violation of national treatment.

5. There is also discriminatory treatment (specific restriction) in the Suriname banking sector (UNCPC 711) where foreigners need the permission of the Foreign Currency Commission to buy and sell immovable property. This restriction limits the movement of capital for the purchase and sale of immovable property

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6. The Suriname insurance industry (UNCPC 71320) has a specific restriction that affects non-nationals differently in that they are required to make payment of administrative costs in foreign exchange which is not required by locals.

7. The Suriname auditing services industry (UNCPC 8221) has a specific restriction that affects non-nationals differently in that foreign companies must pay for services in foreign exchange, which is not required by locals.

**Concerns**

There are a few concerns with respect to the timely removal of restrictions across the region. The main ones are:

- Some of the smaller territories in the OECS do not have the legal capacity\(^8\), for example Montserrat, to draft the legislative amendments if they are presented with several to deal with simultaneously. This may lead to the process being dragged out. Technical assistance from elsewhere is required.

- If amendments are to be made around budget time or close to an impending election they will not receive priority treatment in many states – CARICOM will have to try to persuade countries to give the same priority to these issues.

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\(^8\) See interview responses in the Appendix 3 for an indication of the relative legal capacity of territories.
**Recommendations**

1. Member States should make a final assessment of all the restrictions identified for short-term removal and put in place all the legal, administrative and public awareness activities required for a smooth process.

2. Member States should assess those restrictions that have been identified as medium to long term and make efforts to remove them even faster. This will not only enhance the growth potential of the region as a whole but make it more ready for the WTO and the FTAA.

3. Member States should examine restrictions identified in other territories and ensure that those restrictions do not exist in their territory but have not been notified. If a restriction is not notified it will have to be removed so there is no advantage to be gained by failing to notify or identify existing restrictions.

4. In sensitive areas the necessary meetings with industry representatives should take place to explain the rationale behind the removal of the restrictions and the regional opportunities created as a result. Sensitive sectors include: activities involving patents, copyrights and trademarks; services related to mining; pharmaceutical services; petroleum supply services; small tourism operations in smaller states; air, water and land transport; postal services; electricity transmission and generation services; water services; financial services; telecommunications services; broadcasting services; gambling and betting services.

5. The CARICOM Secretariat needs to intensify efforts at assisting regional bodies to establish regional standards and accreditation, which will help to minimize restrictions on the movement of natural persons and the rights of establishment. The feasibility of a regional Registrar of Companies should also be examined to minimize time and costs to service providers who wish to establish in several states.

6. Technical assistance for legal drafting must be provided in some of the smaller territories where the legal capacity is minimal.

7. The CARICOM Secretariat needs to intensify its efforts at marketing the importance of the CSME (for CARICOM Nationals) in the rapidly changing global environment. The short and long term benefits and costs must be carefully identified. The removal of restrictions will not be readily acceptable across the region unless there is a mindset change. The CARICOM Secretariat should consider developing marketing programmes/plans for the Government’s of regional countries to employ in their own states. The CARICOM Secretariat should arrange more meetings for regional leaders and explain the steps that are being taken towards removing restrictions.
Methodology

The basic objective of this assignment is to provide a realistic timeframe for the removal of all restrictions to the rights of establishment, the provision of services and the movement of capital across all Member States of CARICOM. Member States would then be able to use the findings to assist in commencing the process of implementing their obligations under Chapter 3 of the Revised Treaty with respect to the removal of restrictions. The following approach will be used in achieving the objectives of this assignment:

- The inventories of restrictions notified by each Member State and summarized by the CARICOM Secretariat will be reviewed and used to form the total set of restrictions under consideration
- The provisions of the following Agreements will be incorporated where necessary: a) Chapter 3 and other relevant sections of the revised Treaty of Chaguaramas, b) the GATS, c) the submission of CARICOM to the WTO and d) documents from the FTAA Trade Negotiating Committee on Services
- All restrictions will be classified by economic sub-sector at the UNCPC 3 digit level (and at higher digit levels if necessary)
- The mode affected will be identified
- The ease of removal of restrictions will be identified based on legal or socioeconomic/political criteria
- Restrictions will be categorized into those affecting the rights of establishment; those affecting the provision of services and those affecting the movement of capital
- Sectors requiring special socioeconomic/political analyses with respect to the impact of the removal of restrictions in particular Member States will be identified.

In order to execute the above series of activities, the CARICOM Secretariat’s database of restrictions was queried and the sorted results downloaded into a spreadsheet. This draft report outlines reasonable time frames for the removal of restrictions. The report also proposes: criteria for differentiating between regulations and restrictions and definitions of national treatment and the rights of establishment in the context of the CSME. It also briefly looks at the issue of access to social services by service-providers and their families. These definitions are presented below and are applied wherever appropriate in this assignment.
Standardized Definitions to be used in the Analysis and in dealing with Chapter 3 of the Revised Treaty

The terms of reference required certain definitions and explanations to be proposed for general usage when dealing with Chapter 3 of the Revised Treaty. The definitions relate to the following:
1. differentiating between regulations and restrictions
2. national treatment
3. access to social service by service providers and their families
4. the rights of establishment in the context of the CSME

These issues are addressed in turn below

Regulation versus restriction

The definitions of Regulation and Restriction as provided are as follows:
"For the purposes of Chapter 3 of the Revised Treaty:
(a) a regulation establishes a standard of general application; and
(b) a restriction establishes a discriminatory requirement whether included in a law, and or a regulation, and or an administrative practice."

A regulation is a condition which applies to all, that is to say, nationals and non-nationals alike, while it imposes conditions which may restrict access to an activity or sets standard for same, the regulation does not discriminate against either party by being discriminatory in nature.

Once a regulation becomes discriminatory, that is to say, by applying one set of conditions to nationals, and another set to non-nationals (which are more onerous), the element of generality is removed and the regulation ceases to be a regulation and is rather a restriction - because of its restrictive nature towards a non-national.

An example is a regulation which may require registration, for example, to be able to practice Nursing in St. Lucia. Once the conditions of registration are the same for nationals and non-nationals, this would be a regulation.

If the requirement for a non-national to register is different to the conditions applicable to a national and specifically more onerous on a non-national then the requirement is a restriction, and it loses its label as a regulation. An example of this is the practice as it applies to Architects in Trinidad and Tobago, whereby non-nationals must work with locals and not on their own.

Accordingly, identification of restrictions clothed as regulations would offend Chapter 3 of the Revised Treaty and should be removed.

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9 These definitions were provided by the CARICOM Secretariat
Example: Accounting Services- St. Lucia. The Institute of Chartered Accountants Act establishes a body, which has discretion under section 5 of the Act to make rules for prescribing the requirements of admission. This discretion can be used to limit market access.

National Treatment - the link to regulation

“National treatment”- Each Member State shall accord to services and service suppliers of any other Member, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.

This demands that there be in each sector, a standard of general application to nationals and non-nationals. This generality must be present in legislation, regulations or administrative practices.

It can be noted here that the generality, which makes a regulation non-discriminatory, is the same standard required to accord national treatment. Again, an example would be the requirement of registration to practice in a certain field. Once the conditions for registration are uniform to a national and non-national, it may be said that there is national treatment.

National Treatment for Family

The GATS does not appear to deal with the type of treatment, if any, which is afforded to the extended parties of service suppliers.

The GATS defines "service supplier" and "service consumer" but there is no definition of the extended parties or family as it were of service suppliers. There is a good case for arguing that the family of the supplier would be a consumer in the other Member territory and accordingly should receive national treatment. It is therefore suggested that the family members of service suppliers should be defined (to include defined persons given the right to move with the supplier) and a provision made to accord to the family as defined, national treatment.

Access to Social Services

- CARICOM member states for the most part allow service providers access to their social services provided that they make the necessary contributions to the National Insurance or Social Security Schemes and the same applies for members of their families, which for the most part includes spouse and children under 18 years of age. See Appendix 2 for responses on this subject matter by some member states.
“Rights of Establishment”

The right of each Member to enter another Member State for the purpose of establishing a commercial presence, and including but not limited to:
(a) Engaging in any non-wage earning activities of a commercial, industrial, professional or artisanal nature; and or
(b) Creating and managing economic enterprises, which includes any type of organisation for the production of or trade in goods or the provisions of services (other than a non profit organisation) owned or controlled by that Member.
Criteria to be used for establishing the basis for removal of restrictions

Given that Chapter 3 of the Revised Treaty recognizes that it is unlikely that all restrictions will be removed immediately, it is necessary to set a programme for their removal based on sound criteria. In this report the criteria used fall into one of the following categories:

- Legal and administrative
- Socioeconomic and political

It should be noted however, that all restrictions, except those retained because of extraordinary reasons, were intended to be removed by the end of 2004 (to ensure completion ahead of the implementation of the FTAA) regardless of the legal, administrative, socioeconomic and political consideration. This will be used to set the outside boundaries for the time frames set in this assignment.

Legal and administrative criteria
A Member State may wish to remove a restriction but there may be legal and administrative factors in place that prevent its immediate removal. Legal and administrative restrictions were divided into a) administrative; b) subsidiary legislation; c) principal legislation; and d) constitutional provisions. Member States were contacted by phone and consulted on the process and time frame required to deal with each type of legal and administrative restriction. The findings of these consultations showed that any legal amendment, regardless of type, could be made in the short term, with time frames ranging from one week to a maximum of four months (in exceptional cases).

It was found that although constitutional provisions would take on average longer to address than subsidiary or principal legislation, they can still be dealt with in the short term. The time requirements to 1) draft an amendment, 2) have it presented and debated in Parliament, 3) have it passed, 4) have it proclaimed/promulgated, and 5) have it printed and gazetted were broken down for each member state. It was found that in aggregate they could be dealt with in the short run for each member state. The detailed findings from the interviews with each member state are presented in Appendix 3. The “political will” in each member state will play a major role in determining the smooth and speedy implementation of legal and administrative changes.

Legal and administrative requirements were therefore not found to be the likely cause of any long-term delay in removing a restriction as long as the will was present.

Socioeconomic and political criteria
The next step involved looking at socioeconomic and political considerations that would prevent the easy removal of a restriction to the free movement of services, capital and rights of establishment. For example, a Member State may depend heavily on a particular service sector for employment and revenues, in such cases it may not be

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10 In this report the short term is defined as 0 to 2 years, short to medium term is between 2-3 years, the medium term is defined as 3-5 years, and the long term defined as over 5 years.
11 It is worth noting that in this study no member state required Constitutional Provisions to deal with any of the required amendments.
possible from a political or economic perspective to remove existing restrictions. In this report, based on the ease of removal of restrictions, all service groups will be examined and classified as one of the following: a) not sensitive, b) medium sensitivity or c) sensitive. In each case a different time frame for the removal of restrictions will be set. However, a sensitive area does not necessarily mean a longer time frame, it may mean that great care and careful lobbying may be needed before removing the restriction. Sensitivity is determined by factors including the importance of the sector to the economy; the size of the local industry and local market; and the nature of the service (how it impinges on health, security, etc). Heterogeneity is sometimes introduced because a particular service group may be classified as sensitive in one Member State but medium sensitivity in another depending on their relative circumstances.

Given that legal and administrative factors were found to be removable in the short term, it can be seen that only the socioeconomic/political factors will cause long-term delays. It is quite clear that the judgement of the Consultant, information provided by representatives, the notifications of Member States and knowledge of the special circumstances of Member States, played a key role in the time frames ultimately recommended in this assignment.

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12 The details of the socioeconomic and political analysis can be requested and are recorded in spreadsheets where comments are made with respect to each restriction. In the column outlining sensitivity, the level of sensitivity is stated and in most cases is substantiated by a comment.
**Approach used in the analysis**

The principal assessment of services in this assignment was carried out at the UNCPC 3-digit level and presented in a large spreadsheet. It should be noted that there are 127 such categories of services. The following approach was applied using information from all member states:

1. The names of member states were listed in the first column of the spreadsheet.
2. All UNCPC 3 digit level categories were listed in the second column of the spreadsheet – if the 3-digit level contained several services each with specific restrictions, the list was expanded to the 4 or 5 or 6 digit level of the UNCPC to accommodate this. For example, UNCPC 713 deals with “Insurance and pension services” – included here are life insurance, motor vehicle and pension services. This information was obtained from the CARICOM Secretariat Statistics Department which has all restrictions identified to date by service groups.
3. The service category and industry were listed in the 3rd and 4th columns of the spreadsheet.
4. For each category of service, all restrictions that exist for each member state were listed in the fifth column.
5. In the 6th to 9th columns of the spreadsheet, the modes of delivery that are affected by the restriction were identified – cross border, establishment of commercial presence, consumption abroad, movement of natural persons.
6. The legal type of the restriction was outlined in the 10th column. The categories of legal and administrative used are a) administrative (A), b) subsidiary legislation (SL), and c) legislative (L) and d) constitutional provision (P).
7. The 11th column provides a summary description of the restriction based on the legislation or administrative practices governing the particular service sector.
8. The 12th column provides the categories of socioeconomic and political sensitivity for each service sector, which are a) not sensitive, b) medium sensitivity, and c) sensitive.
9. The relative ease of removal of each type of restriction was assessed and outlined in the 13th column – based on the category of legal and administrative and/or socioeconomic and political
10. The 14th column states a time frame for the removal of the restriction based on the ease of removal and all relevant factors.
11. The 15th column provides special comments, which clarify the issue. It is very important that these comments are borne in mind because they help to support the basis of the time frames outlined.

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13 This information was obtained from the Microsoft Access database of services and restrictions developed by the CARICOM Secretariat’s Statistics Department.
14 Horizontal restrictions (where they affect all categories of service) were dealt with in a separate spreadsheet from specific restrictions (where they affect only the specific service group under consideration). Most restrictions are specific though the horizontal ones are more far reaching.
Main Findings on Specific Restrictions

1. In the analysis there are several cases where the effects of horizontal and specific restrictions need to be separated and carefully assessed to avoid confusion. Often it is the horizontal work permit restriction that is causing both a restriction to the rights of establishment as well as to the movement of natural persons but it could appear that a specific regulation is causing it. For example, for pharmaceutical services there may be a requirement in the legislation for licensing before you can operate within a country. This is a necessary regulation and should be retained to protect the public – it does not, however, restrict the rights to establishment. Yet, it becomes a restriction to a qualified pharmacist/service provider wishing to move as a natural person and provide the (pharmaceutical) service in the other state. This effective restriction needs to be dealt with by the provision of regional licences or the mutual acceptance of licences from other states. In the analysis, many of the services where N/A has been placed in the time frame column is to deal with the situation where a regulation is necessary so should not be removed but is restrictive to the movement of natural persons. The solution here is at the regional level.

2. Over 350 different restrictions or seeming restrictions were analyzed in the spreadsheet

3. Restrictions could be identified for at least one Member State in most UNCPC 3-digit category. The only UNCPC 3-digit categories in which no restrictions were identified were the following:
   - Transportation services via space (UNCPC 663)
   - Interdisciplinary research and experimental development services (UNCPC 813)
   - Specialty design services (UNCPC 834)
   - Advertising services (UNCPC 836)
   - Market research and public opinion polling service (UNCPC 837)
   - Photographic services and photography processing services (UNCPC 838)
   - Other professional, scientific and technical services
   - Cleaning services (UNCPC 853)
   - Packaging serviced (UNCPC 854)
   - Installation services (other than construction (UNCPC 865)
   - Sanitation and similar services (UNCPC 943)
   - Other environmental protection services (UNCPC 949)
   - Washing, cleaning and dyeing services (UNCPC 971)

4. In some areas like accounting, insurance, telecommunications and medical services there were numerous restrictions across all countries

5. Most restrictions affected the rights of establishment (300 cases), followed by the movement of natural persons (279 cases), followed by cross border trade (80 cases) followed by consumer moves to supplier (16). However there were variations within countries (see the table below for greater detail).\(^\text{15}\)

\(^{15}\) Some of these variations may be influenced by differences in how different Consultants and countries categorized restrictions in preliminary work used as a basis for this report.
Table 1: Number of Specific Restrictions Identified for Each Mode of Service Delivery

<table>
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<tr>
<th>Country</th>
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<td>1</td>
<td>41</td>
<td>15</td>
</tr>
<tr>
<td>St. Kitts and Nevis</td>
<td>3</td>
<td>1</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>St. Vincent &amp; Grenadines</td>
<td>2</td>
<td>0</td>
<td>10</td>
<td>4</td>
</tr>
<tr>
<td>Suriname</td>
<td>3</td>
<td></td>
<td>16</td>
<td>20</td>
</tr>
<tr>
<td>Trinidad and Tobago</td>
<td>9</td>
<td>1</td>
<td>12</td>
<td>15</td>
</tr>
<tr>
<td>Grand Total</td>
<td>80</td>
<td>16</td>
<td>300(^{17})</td>
<td>279(^{18})</td>
</tr>
</tbody>
</table>

- There were 147 cases out of 358 where the specific restrictions were identified as being removable in the short run. This suggests that 41% of the services that are restricted could be freed up easily well within two years. There were a further 53 cases (15%) where the consultants felt the restriction identified was not discriminatory (and was often a necessary regulation and did not need to be removed\(^{19}\)). A further 33 or just about 9% of restrictions can be removed in the short to medium run or within two to three years. The table below outlines the term structure for the removal of restrictions for each member state.

\(^{16}\) When reading this table the reader should be aware of the fact that there were 358 service areas identified as having restrictions by at least one mode. Most service areas identified had restrictions to the rights of establishment and the movement of natural persons but in some cases the restriction did not apply to either of these two cases and in others it applied to only one or the other.

\(^{17}\) This means that of the 358 service categories identified as having at least one restriction, the rights of establishment was restricted in 300 of these cases.

\(^{18}\) This means that of the 358 service categories identified as having at least one restriction, the movement of natural persons was restricted in 279 of these cases.

\(^{19}\) These are designated as N/A in the spreadsheets.
### Table 2: Term structure for removal of specific restrictions across member states

<table>
<thead>
<tr>
<th>Country</th>
<th>Short term&lt;sup&gt;20&lt;/sup&gt;</th>
<th>Short to medium term&lt;sup&gt;21&lt;/sup&gt;</th>
<th>Medium term&lt;sup&gt;22&lt;/sup&gt;</th>
<th>Medium to long term&lt;sup&gt;23&lt;/sup&gt;</th>
<th>Long term&lt;sup&gt;24&lt;/sup&gt;</th>
<th>Nothing to remove&lt;sup&gt;25&lt;/sup&gt;</th>
<th>Grand Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antigua and Barbuda</td>
<td>5</td>
<td>0</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>13</td>
</tr>
<tr>
<td>Barbados</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>3</td>
<td>21</td>
</tr>
<tr>
<td>Belize</td>
<td>15</td>
<td>2</td>
<td>4</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>26</td>
</tr>
<tr>
<td>Dominica</td>
<td>23</td>
<td>1</td>
<td>3</td>
<td>0</td>
<td>5</td>
<td>3</td>
<td>35</td>
</tr>
<tr>
<td>Grenada</td>
<td>21</td>
<td>6</td>
<td>7</td>
<td>1</td>
<td>6</td>
<td>4</td>
<td>45</td>
</tr>
<tr>
<td>Guyana</td>
<td>18</td>
<td>6</td>
<td>4</td>
<td>3</td>
<td>7</td>
<td>3</td>
<td>41</td>
</tr>
<tr>
<td>Jamaica</td>
<td>25</td>
<td>5</td>
<td>10</td>
<td>7</td>
<td>10</td>
<td>16</td>
<td>73</td>
</tr>
<tr>
<td>Montserrat</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>3</td>
<td>3</td>
<td>8</td>
</tr>
<tr>
<td>Saint Lucia</td>
<td>18</td>
<td>5</td>
<td>8</td>
<td>1</td>
<td>7</td>
<td>5</td>
<td>44</td>
</tr>
<tr>
<td>St. Kitts and Nevis</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>St. Vincent &amp; the Grenadines</td>
<td>5</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>10</td>
</tr>
<tr>
<td>Suriname</td>
<td>7</td>
<td>1</td>
<td>4</td>
<td>5</td>
<td>2</td>
<td>0</td>
<td>19</td>
</tr>
<tr>
<td>Trinidad and Tobago</td>
<td>6</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>4</td>
<td>5</td>
<td>17</td>
</tr>
<tr>
<td><strong>Grand Total</strong></td>
<td><strong>147</strong></td>
<td><strong>33</strong></td>
<td><strong>48</strong></td>
<td><strong>24</strong></td>
<td><strong>53</strong></td>
<td><strong>53</strong></td>
<td><strong>358</strong></td>
</tr>
</tbody>
</table>

<sup>20</sup> Short term is 0-1 years  
<sup>21</sup> Short to medium term is between 1-2 years  
<sup>22</sup> Medium term is between 2-3 years  
<sup>23</sup> Medium to long term is between 3-4 years  
<sup>24</sup> Long term is 4 years or more  
<sup>25</sup> N/A means that there is nothing to remove as what appears to be a restriction is a necessary regulation
Approach used in the analysis of Horizontal Restrictions

The horizontal restrictions, which by nature affect all or several services, are presented in a spreadsheet with exactly the same format as the vertical restrictions. The 15 headings/fields are all the same as those outlined earlier. The only differences are:
1. There are no UNCPC categories so a very brief verbal categorization of the restriction is provided in this field.
2. The Service Affected and Industry Affected fields will state all services or all relevant services.

Main Findings

- 14 different types of horizontal restrictions have been identified. These are outlined in the table below

Table 3: Horizontal Restrictions Across Member States and Time Frame for Removal

<table>
<thead>
<tr>
<th>Horizontal Restriction</th>
<th>No. Territories in which it applies</th>
<th>Time frame for removal</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Alien Land Holding</td>
<td>OECS and Belize</td>
<td>Long term</td>
</tr>
<tr>
<td>2. Company Registration/ Establishment</td>
<td>12</td>
<td>Short term</td>
</tr>
<tr>
<td>3. Beach Vending Services</td>
<td>Grenada</td>
<td>Medium term</td>
</tr>
<tr>
<td>4. Exchange Controls</td>
<td>9</td>
<td>Short term</td>
</tr>
<tr>
<td>5. Financial Loan Services</td>
<td>Dominica</td>
<td>Short term</td>
</tr>
<tr>
<td>6. Foreign Investment</td>
<td>Trinidad &amp; Tobago</td>
<td>Long term</td>
</tr>
<tr>
<td>7. International Business Services</td>
<td>St. Vincent &amp; Grenadines</td>
<td>Medium to long term</td>
</tr>
<tr>
<td>8. Micro and Small businesses</td>
<td>St. Lucia</td>
<td>Long term</td>
</tr>
<tr>
<td>9. Offshore Sector</td>
<td>St. Lucia</td>
<td>Short term</td>
</tr>
<tr>
<td>10. Property transfer tax</td>
<td>Grenada</td>
<td>Short term</td>
</tr>
<tr>
<td>11. Service Charges (Airport)</td>
<td>St. Kitts &amp; Nevis</td>
<td>Short term</td>
</tr>
<tr>
<td>12. Trade Services</td>
<td>St. Lucia</td>
<td>Short term</td>
</tr>
<tr>
<td>13. Professional Services Act</td>
<td>4</td>
<td>N/A</td>
</tr>
<tr>
<td>14. Work Permit</td>
<td>All</td>
<td>Medium term</td>
</tr>
</tbody>
</table>

With respect to horizontal restrictions, two other restrictions were identified, these were “land use” in Grenada, “Location of business” in St. Lucia. However, the working group meeting in Barbados agreed that these were not discriminatory.

Issues relating to Exchange controls are referred to COFAP by the CARICOM Secretariat

This is very similar to the alien landholding legislation that operates in the OECS – see Appendix 1 for more details on the rationale behind the legislation.

This was originally categorized as “various” by the consultants but further examination revealed that this legislation, which is a necessary regulation, applies across various professions. The reason why it is included as a restriction is because of the possibility of discretion.
• The work permit requirements apply in all states
• The rights of establishment is the main delivery mode affected by horizontal restrictions followed by the movement of natural persons
• Restrictions relating to Exchange controls, Financial loan services, International business services and Offshore Sector are financial in nature and mainly affect cross border trade. These are the restrictions that affect the free movement of capital in the region
• The sensitivity of the alien landholding restrictions makes the removal a long-term issue because of likely local resistance and political consequences. There are also real social and economic (property rights and externalities) issues to take into consideration
• Company registration has not been included because even though it is required in all territories for all persons establishing a business there are usually additional requirements for external companies or non-nationals. However, the issue of a centralized regional company registration bureau should be discussed in the regulatory reform to accommodate the CSME.
• Exchange controls, which apply in a few countries, should be removed in the short run. The COFAP is expected to deal with the issues concerning Exchange Controls.

It is recommended that further and detailed studies be done with respect to the following:
• To determine whether the special treatment for micro enterprises, which obtains in St. Lucia is also relevant for other territories.
• The examination of all tax legislation of member states in order to determine if there is discriminatory treatment
• The examination of the offshore sector to establish the constituent parts falling under this sector and to determine if this is relevant to other territories.
**Approach used in the analysis of Restrictions to the Rights of Establishment**

The right of establishment spreadsheet (Spreadsheet 3) uses the same format as the previous two spreadsheets except that it only includes specific and horizontal restrictions that affect the right of establishment.

- There are 300 cases of specific restrictions that affect the right of establishment
- There are 42 cases of horizontal restrictions that affect the right of establishment

The removal of restrictions on the right of establishment are dealt with in Article 35c of Chapter 3 of the Revised Treaty.

The findings here are basically repetitions of what was found when discussing the specific and horizontal restrictions earlier.
Approach used in the analysis of Restrictions to the Movement of Capital

This spreadsheet contains a few wide-ranging restrictions that affect the free movement of capital across the region. Article 40 of Chapter 3 of the Revised Treaty deals with the “Removal of Restrictions on Movement of Capital and Current Transactions. Paragraph 3 of this Article states that: “For the purpose of this Article, capital and related payments and transfers include:
(a) Equity and portfolio investments
(b) Short-term bank and credit transactions
(c) Payment of interest on loans and amortization
(d) Dividends and other income on investments after taxes
(e) Repatriation of proceeds from the sale of assets
(f) Other transfers and payments relating to investment flows.

The only horizontal restrictions that affect these flows are shown in the table below.

Table 4: Horizontal Restrictions Across Territories

<table>
<thead>
<tr>
<th>Horizontal Restriction</th>
<th>No. Territories in which it applies</th>
<th>Time frame for removal</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Exchange Controls</td>
<td>8</td>
<td>Long term</td>
</tr>
<tr>
<td>2) Financial Loan Services</td>
<td>Dominica</td>
<td>Short to medium term</td>
</tr>
<tr>
<td>3) Foreign Investment</td>
<td>Trinidad &amp; Tobago</td>
<td>Long term</td>
</tr>
<tr>
<td>4) Alien Land Holding</td>
<td>6</td>
<td>Long term</td>
</tr>
</tbody>
</table>

- Exchange controls are found in Barbados, Belize and all OECS countries. However, the controls tend not to discriminate against non-nationals and usually require permission to be sought from the relevant authorities for movement of sums over a certain amount (EC$250,000 in the OECS). For the purpose of safeguarding against money laundering and other international illegal activities, these controls are seen as necessary but they do not appear to discriminate. Exchange controls may hinder the movement of capital as it relates to the movement of natural persons and cross border trade as the seeking of permission may not always be convenient.

- The Alien Landholding legislation restricts the movement of capital for non-nationals in the countries concerned because it allows for the restriction or prohibition of the transfer of shares to non-citizens. It also restricts the creation of trusts in favour of non-nationals. This legislation is very sensitive but needs to be looked at carefully.

- The foreign investment horizontal restriction in Trinidad & Tobago affects the free movement of capital. It does so to the extent that it restricts a foreign investor to acquiring no more than 30% of the shares in a public company without a licence. This licence requirement does not apply to nationals.

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30 See Appendix 1 for more details.
• The financial loan services restriction in Dominica also restricts the free movement of capital to the extent that the Ministry of Finance must approve a loan to a non-citizen even if the individual lives in Dominica. This is clearly in violation of national treatment.

• There is also discriminatory treatment (specific restriction) in the Suriname banking sector (UNCPC 711) where foreigners need the permission of the Foreign Currency Commission to buy and sell immovable property. This restriction limits the movement of capital for the purchase and sale of immovable property.

• The Suriname insurance industry (UNCPC 71320) has a specific restriction that affects non-nationals differently in that they are required to make payment of administrative costs in foreign exchange which is not required by locals.

• The Suriname Auditing services industry (UNCPC 8221) has a specific restriction that affects non-nationals differently in that foreign companies must pay for services in foreign exchange, which is not required by locals.
Appendix
Appendix 1:

**Trinidad & Tobago – Foreign Investment Act**

The government at the time - the National Alliance for Reconstruction intended for the Act to serve a dual purpose:
1. To encourage external financing
2. To ensure that such foreign investment does not affect economic recovery

The Act was geared to amend the Alien Landholding Act, which was found to discourage foreign investment by imposing too many bureaucratic procedures. There was a need to open up foreign investment in order to deal with the country’s external debt financing hence the piloting of the Act.

The objectives of the act were to facilitate investment by
1. elimination of bureaucratic procedures
2. elimination of stipulations on the level of equity participation in new enterprises by foreign investors
3. to facilitate the acquisition of real property with a focus on (1) speculation in real property by foreigners, (2) acquisition of locally owned companies by foreigners
4. elimination of doubt in areas in which foreign investment was easy to obtain

[item 3 shows the treatment of land and shares as inextricable.]

It is worth noting that there was still an insistence on T&T citizens remaining central to their own development

Foreign control in companies was increased from what was prescribed in the Alien Landholding Act and there was clarity regarding foreigners’ interest in land as the government recognised the need for equity and to permit ownership to enhance the interests of Trinidad and not support speculation. Repeatedly it is stated that the Act is geared to encourage not hamper investment. The provision for licences is a part of the goal to "encourage but to set controls and guidelines and procedures" so that foreigners are not a law unto themselves.

The share requirement is set to comply with T&T’s hostile take over legislation (initially found in the Stock Exchange Act and now in the Securities Exchange Act). The licence requirement regarding shares and land are no different except that shares in a company may be co-related to a type of investment/ activity. (In 1990 the concern lay with acquisition of the Public utility monopolies which was a "non permissible" investment). The control on shares is primarily to prevent takeovers and then with the control in land.
APPENDIX 2

QUESTIONS ON THE TREATMENT OF SERVICE PROVIDERS AND THEIR FAMILIES IN THE CARICOM REGION

These questions first address the issue of what happens to CARICOM Nationals when they provide services to other Caricom countries:

Question 1:
If service providers or producers of goods from another CARICOM territory enter your territory to establish a business, can their families accompany them?

- Montserrat – If business is an approved one – yes.
- St. Lucia – Yes
- Belize – Yes
- Grenada – Yes
- Antigua & Barbuda – Yes
- Dominica – Yes
- St. Vincent & the Grenadines – Yes
- Jamaica - yes

Question 2:
Who do you define as family that can accompany them?

- Montserrat – Spouse and children under 18 years of age
- St. Lucia – Spouse & Children. Parents may be considered if incapacitated.
- Belize – Immediate family (i.e. spouse & Children) and dependents
- Grenada – Spouse and immediate dependents of the service providers
- Antigua & Barbuda – Spouse & Children and dependents
- Dominica – Spouse, Children, Adopted Child
- St. Vincent & the Grenadines – Spouse, Children and dependents
- Jamaica – Wife (including common-law that have lived together for at least five years), mother, father, siblings, children (including unmarried step or adopted children)

Question 3:
Would the service provider or producer of goods be entitled to Social Security benefits available, e.g. subsidised health, pensions, NIS, subsidised education etc.?

- Montserrat – No – would not be eligible right away; there must be a minimum period.
- St. Lucia – If contribution is made to NIS; subsidised education if they are tax payers.
Belize – No.
Grenada – if they are contributors to the Social Security Scheme which is optional for self-employed persons.
Antigua & Barbuda – the service provider would have to contribute to the Social Security Scheme and would therefore derive the benefits attached.
Dominica – the service providers must register with the Social Security Scheme and thus would derive the benefits.
St. Vincent & the Grenadines – Yes but there is no subsidised health at the moment.
Jamaica – National Insurance is contributory pension scheme, therefore if there is entitlement under the CARICOM Social Reciprocal Agreement then Jamaica would honour its obligations under the agreement

Question 4:
Would the service provider or provider of good’s family be entitled to social security benefits mentioned in Q3 above?

Montserrat – Access to education which is free in government schools.
St. Lucia – If NIS contributions are made on their behalf.
Belize – No.
Grenada – Yes if contributions to the scheme are made on their behalf.
Antigua & Barbuda – if the contributions are made.
Dominica – provided the contributions are made.
St. Vincent & the Grenadines – Yes
Jamaica - Yes

Question 5:
Are there any benefits that nationals receive that the service provider or provider of goods and their families would not receive? Explain.

Montserrat – Yes – social welfare benefits.
St. Lucia – None
Belize – Yes. The Constitution of Belize discriminates in favour of Belizeans.
Grenada – No
Dominica - No
Antigua & Barbuda – Yes. The provision of he Non-Citizen’s Landholding Act to provide for ownership of land by CARICOM nationals. A loan levy of 3 % is applied to all non-nationals at the commercial banks & there is a different rate for certain fees at the hospital.
St. Vincent & The Grenadines – No.
Jamaica - No
Treatment of Non-CARICOM Nationals

- Montserrat – The answers are the same as those for CARICOM Nationals. However, payment for health services would differ for Non-CARICOM nationals.
- St. Lucia – The answers are the same as those for CARICOM Nationals.
- Belize – The answers are the same as those for CARICOM Nationals.
- Grenada – The answers are the same as those for CARICOM Nationals.
- Antigua & Barbuda – The answers are the same as those for CARICOM Nationals except in the case on No. 1 where if you do not fall under the CARICOM Community Skilled National Act, a non-CARICOM National would require a Work Permit.
- Dominica – The Answers are the same as those for CARICOM Nationals.
- St. Vincent & The Grenadines - only nationals from Canada enjoy the same benefits as those of CARICOM Nationals. Other Nationals must have approval before they can enter and bring their families.
- Jamaica – same as above
Appendix 3:
Responses to Questionnaire on the Removal of Restrictions Inconsistent with Chapter 3 of the Revised Treaty
Responses to Questionnaire on the Removal of Restrictions Inconsistent with Chapter 3 of the Revised Treaty

Territory: Grenada
Date: March 30, 2001
Interviewee: Mr. John Wilson, Legal Draughtsman, Ministry of Legal Affairs
Contact Tel: 473-440-2050
Interviewer: Noel Watson
Mode of interview: Telephone interview from Jamaica

1. Who would propose an amendment?
   - Minister or Department responsible for any type of legislation

2. What would be the minimum time taken to draft an amendment?
   - Depends on the complexity of the Act and the nature of the change but in most cases this can be done in one week to one month – regardless of the type of legislation

3. What would be the minimum time required to have it presented in Parliament?
   - Subsidiary Legislation: Does not need to be presented – requires signature of the relevant Minister
   - Principal Legislation: Depends on urgency and/or time of the year. It coincides with budget debate it could take longer as it may not be priority. In general this could take 4-6 weeks.
   - Constitutional Provisions: Depends on urgency

4. What would be the minimum time required to have it debated in Parliament?
   - Subsidiary Legislation: Does not apply
   - Principal Legislation: Three readings are required and usually needs a minimum of two sessions. In general this could take up to two months – most of the debate takes place in the Senate.
   - Constitutional Provisions: Depends on urgency

5. What is the majority required to have an amendment passed?
   - Subsidiary Legislation: Does not apply
   - Principal Legislation: Simple majority
   - Constitutional Provision: Two-thirds majority – a referendum may be required which will typically determine the outcome

6. What is the minimum time frame required to have an amendment take effect?
   - Subsidiary Legislation: Just needs to be printed and gazetted – could be easily done within two weeks
   - Principal Legislation: After Governor General’s proclamation it needs to be printed and gazetted – two weeks. (Governor General does not tend to hold up the process)
   - Constitutional Provisions: Same as Principal Legislation and depends on urgency

7. What is the legal capacity to deal with these measures?
   - The interviewee is the only legal draughtsman in the Ministry

Comments
In general, the will of the Minister and the urgency of the matter are the main determinants of the speed that an amendment takes to be made. With full attention, the process could take as little as two weeks and as much as four months. Socially sensitive areas usually require more debate and sub-committee involvement, which could hold up the process.

The legal capacity of the Department, with only one draughtsman seems to be the major constraint if several amendments were to be required simultaneously. Technical assistance from CARICOM, the OECS or the international community could then be provided to accelerate the process.

For administrative changes that do not require changes in the legislation, just a meeting of the association in question is required and their rules followed.
Responses to Questionnaire on the Removal of Restrictions Inconsistent with Chapter 3 of the Revised Treaty

Territory: Dominica
Date: March 30, 2001
Interviewee: Hazel Johnson, State Attorney
Contact Tel: 767-448-2401
Interviewer: Noel Watson
Mode of interview: Telephone interview from Jamaica

1. Who would propose an amendment?
   - Subsidiary Legislation: Minister or Department responsible for any type of legislation
   - Principal Legislation: Attorney General or Minister would put a legislative plan in place
   - Constitutional Provisions: The Prime Minister

2. What would be the minimum time taken to draft an amendment?
   - Depends on the complexity of the Act and the nature of the change but in most cases this can be done in one to three weeks – regardless of the type of legislation

3. What would be the minimum time required to have it presented in Parliament?
   - Depends on urgency and the next sitting of Parliament – if urgent it could be done within two weeks

4. What would be the minimum time required to have it debated in Parliament?
   - If it is urgent and not too complex, all three readings could take place in one sitting

5. What is the majority required to have an amendment passed?
   - Subsidiary Legislation: Simple
   - Principal Legislation: Simple majority
   - Constitutional Provision: Two-thirds majority – a referendum may be required which will typically determine the outcome

6. What is the minimum time frame required to have an amendment take effect?
   - Two weeks – after changes have been made and the President has given the assent all that is required is printing and gazetting

7. What is the legal capacity to deal with these measures?
   - The interviewee is the only legal draughtsman in the Ministry but is expecting another lawyer to join her

Comments
In general, the will of the Minister and the urgency of the matter are the main determinants of the speed that an amendment takes to be made. With full attention, the process could take as little as two weeks and as much as four months. Socially sensitive areas usually require more debate and sub-committee involvement, which could hold up the process.

The legal capacity of the Department, with only one draughtsman seems to be the major constraint if several amendments were to be required simultaneously. Technical assistance from CARICOM, the OECS or the international community could then be provided to accelerate the process.

For administrative changes that do not require changes in the legislation, just a meeting of the association in question is required and their rules followed.
Responses to Questionnaire on the Removal of Restrictions Inconsistent with Chapter 3 of the Revised Treaty

Territory: Antigua & Barbuda
Date: March 30, 2001
Interviewee: Mr. Lebrecht Hesse, Chief Parliamentary Counsel
Contact Tel: 268-462-0245
Interviewer: Noel Watson
Mode of interview: Telephone interview from Jamaica

1. Who would propose an amendment?
   • Minister responsible - for any type of legislation

2. What would be the minimum time taken to draft an amendment?
   • Depends on the complexity of the Act and the nature of the change but in most cases this can be done in one month – regardless of the type of legislation

3. What would be the minimum time required to have it presented in Parliament?
   • Subsidiary Legislation: Does not need to be presented – requires only the signature of the relevant Minister but if it goes to Cabinet it could take one month
   • Principal Legislation: Could reach the House in two weeks if Cabinet approves and it has high priority.
   • Constitutional Provisions: Depends on urgency

4. What would be the minimum time required to have it debated in Parliament?
   • Subsidiary Legislation: Does not apply
   • Principal Legislation: Three readings are required and usually needs a minimum of one month.
   • Constitutional Provisions: Depends on urgency

5. What is the majority required to have an amendment passed?
   • Subsidiary Legislation: Does not apply
   • Principal Legislation: Simple majority
   • Constitutional Provision: Two-thirds majority – a referendum will be required which will typically determine the outcome

6. What is the minimum time frame required to have an amendment take effect?
   • Subsidiary Legislation: Just needs to be printed and gazetted – could be easily done within two weeks
   • Principal Legislation: After Governor General’s proclamation it needs to be printed and gazetted – three weeks.
   • Constitutional Provisions: Same as Principal Legislation and depends on urgency

7. What is the legal capacity to deal with these measures?
   • The interviewee is the only legal draughtsman in the Ministry and there are many priorities

Comments
In general, the will of the Minister and the urgency of the matter are the main determinants of the speed that an amendment takes to be made. With full attention, the process could take as little as one month and as much as four months – three months is a realistic time frame. Socially sensitive areas usually require more debate and sub-committee involvement, which could hold up the process.

The legal capacity of the Department, with only one draughtsman seems to be the major constraint if several amendments were to be required simultaneously. Technical assistance from CARICOM, the OECS or the international community could then be provided to accelerate the process.

For administrative changes that do not require changes in the legislation, just a meeting of the association in question is required and their rules followed.
**Responses to Questionnaire on the Removal of Restrictions Inconsistent with Chapter 3 of the Revised Treaty**

Territory: Barbados  
Date: March 30, 2001  
Interviewee: Ms. Shirley Bell, Chief Parliamentary Counsel  
Contact Tel: 246-431-7706  
Interviewer: Noel Watson  
Mode of interview: Telephone interview from Jamaica

1. Who would propose an amendment?  
   - Minister or Prime Minister

2. What would be the minimum time taken to draft an amendment?  
   - Depends on the complexity of the Act and the nature of the change but in most cases this can be done in one week to one month – regardless of the type of legislation

3. What would be the minimum time required to have it presented in Parliament?  
   - Subsidiary Legislation: Does not need to be presented – only has to go to Cabinet  
   - Principal Legislation: Depends on urgency  
   - Constitutional Provisions: Depends on urgency

4. What would be the minimum time required to have it debated in Parliament?  
   - Subsidiary Legislation: Does not apply  
   - Principal Legislation: Depends on urgency and technical nature of the legislation but definitely within three months  
   - Constitutional Provisions: Depends on urgency

5. What is the majority required to have an amendment passed?  
   - Subsidiary Legislation: Does not apply  
   - Principal Legislation: Simple majority  
   - Constitutional Provision: Two-thirds majority – a referendum may be required which will typically determine the outcome

6. What is the minimum time frame required to have an amendment take effect?  
   - No more than a month

7. What is the legal capacity to deal with these measures?  
   - There is a team of six lawyers capable of doing the work

**Comments**

In general, the will of the Minister and the urgency of the matter are the main determinants of the speed that an amendment takes to be made. With full attention, the process could be completed within three months. In general subsidiary legislation should not take very long. Socially sensitive areas usually require more debate, which could hold up the process.

The legal capacity of the Department does not seem to be a major issue here. It was estimated that if 30 pieces of legislation requiring amendments were presented simultaneously, the whole process could be completed with in nine months. For administrative changes that do not require changes in the legislation, just a meeting of the association in question is required and their rules followed.
Responses to Questionnaire on the Removal of Restrictions Inconsistent with Chapter 3 of the Revised Treaty

Territory: St. Kitts & Nevis
Date: March 30, 2001
Interviewee: Mr. Francis Wilson, Legal Draughtsman
Contact Tel: 869-465-2521
Interviewer: Noel Watson
Mode of interview: Telephone interview from Jamaica

1. Who would propose an amendment?
   • Minister responsible for any type of legislation

2. What would be the minimum time taken to draft an amendment?
   • Depends on the complexity of the Act and the nature of the change but in most cases this can be done in one day to one month – regardless of the type of legislation

3. What would be the minimum time required to have it presented in Parliament?
   • Subsidiary Legislation: Does not need to be presented – requires only the signature of the relevant Minister – most are not laid before House
   • Principal Legislation: Depends on urgency Constitutional Provisions – could take as little as one day but could take months depending on priority.

4. What would be the minimum time required to have it debated in Parliament?
   • Subsidiary Legislation: Does not apply
   • Principal Legislation: All three readings could possibly be done in one day. In general this could take up to two months month – sensitivity and urgency are key factors.
   • Constitutional Provisions: Depends on urgency

5. What is the majority required to have an amendment passed?
   • Subsidiary Legislation: Does not apply
   • Principal Legislation: Simple majority
   • Constitutional Provision: Two-thirds majority – a referendum will be required which will typically determine the outcome (this was the case on the issue regarding the ceding of Nevis)

6. What is the minimum time frame required to have an amendment take effect?
   • Subsidiary Legislation: Just needs to be printed and gazetted – could be easily done within one week to one month as long as there are no sensitivity considerations
   • Principal Legislation: After Governor General’s proclamation it needs to be printed and gazetted – one week to one month as long as not sensitive.
   • Constitutional Provisions: Same as Principal Legislation and depends on urgency

7. What is the legal capacity to deal with these measures?
   • Three experienced draughts persons and one junior

Comments
In general, the will of the Minister and the urgency/sensitivity of the matter are the main determinants of the speed that an amendment takes to be made. With full attention, the process could take as little as two weeks. Socially sensitive areas usually require more debate, which could hold up the process.

The legal capacity of the Department, with four draughts persons seems not to be a constraint.

For administrative changes that do not require changes in the legislation, just a meeting of the association in question is required and their rules followed.
Responses to Questionnaire on the Removal of Restrictions Inconsistent with Chapter 3 of the Revised Treaty

Territory: Belize
Date: March 30, 2001
Interviewee: Mr. Cole, Legal Draughtsman
Contact Tel: 501-8-22504
Interviewer: Noel Watson
Mode of interview: Telephone interview from Jamaica

1. Who would propose an amendment?
   • Ministry responsible - for any type of legislation

2. What would be the minimum time taken to draft an amendment?
   • Subsidiary legislation changes could be done in one day if not complex
   • Principal legislation changes depend on the complexity of the Act and the nature of the change but in most cases this can be done in one week to one month
   • Constitutional Provisions – can be done quickly depending on the complexity of the legislation

3. What would be the minimum time required to have it presented in Parliament?
   • Subsidiary Legislation: Does not need to be presented
   • Principal Legislation: Depends on who is piloting it and the urgency – but can happen within two weeks
   • Constitutional Provisions: Depends on urgency and may require a Referendum

4. What would be the minimum time required to have it debated in Parliament?
   • Subsidiary Legislation: Does not apply
   • Depends on urgency – all three readings could be completed in one day but in general would depend on the circumstances – sensitive areas could take a long time but not because of technical limitations. One month is the usual time.
   • Constitutional Provisions: Depends on urgency

5. What is the majority required to have an amendment passed?
   • Subsidiary Legislation: Does not apply
   • Principal Legislation: Simple majority
   • Constitutional Provision: Two-thirds if it is not listed but three-quarters if listed

6. What is the minimum time frame required to have an amendment take effect?
   • Subsidiary Legislation: Just needs to be printed and gazetted – could be easily done within days
   • Principal Legislation: After Governor General’s assent it needs to be printed and gazetted – two weeks. (Governor General does not tend to hold up the process)
   • Constitutional Provisions: Same as Principal Legislation and depends on urgency

7. What is the legal capacity to deal with these measures?
   • There are three legal draughtsmen but one specialises in offshore legislation.

Comments
In general, the will of the Minister and the urgency of the matter are the main determinants of the speed that an amendment takes to be made. With full attention, the process could take as little as two weeks and as much as a few months. Socially sensitive areas usually require more debate and sub-committee involvement, which could hold up the process.

The legal capacity of the Department, with three draughtsman seems to be adequate.
For administrative changes that do not require changes in the legislation, just a meeting of the association in question is required and their rules followed.

**Responses to Questionnaire on the Removal of Restrictions Inconsistent with Chapter 3 of the Revised Treaty**

Territory: St. Lucia  
Date: April 4th, 2001  
Interviewee: Ms Vicki Damini, Legal Draughtsperson  
Contact Tel: 758-468-3200  
Interviewer: Kimberly Erriah  
Mode of interview: Telephone interview from Trinidad

1. Who would propose an amendment?  
   - Ministry responsible - for any type of legislation

2. What would be the minimum time taken to draft an amendment?  
   - Subsidiary legislation changes could be done in one day if not complex  
   - Principal legislation changes depend on the complexity of the Act and the nature of the change but in most cases this can be done in one week to one month  
   - Constitutional Provisions – can be done quickly depending on the complexity of the legislation  
   - There is a legislative programme, but if a mandate is given for an urgent response to the Attorney General’s request it can happen quickly

3. What would be the minimum time required to have it presented in Parliament?  
   - Subsidiary Legislation: Does not need to be presented  
   - Principal Legislation: Depends on who is piloting it and the urgency – but can happen within two weeks  
   - Constitutional Provisions: Depends on urgency and may require a Referendum  
   - Any delay in presentation to Parliament will only be for days and is usually due to slow printing

4. What would be the minimum time required to have it debated in Parliament?  
   - Subsidiary Legislation: Does not apply  
   - Depends on urgency – all readings could be completed in one day but in general would depend on the circumstances – sensitive areas could take a long time but not because of technical limitations. One month is the usual time.  
   - Constitutional Provisions: Depends on urgency

5. What is the majority required to have an amendment passed?  
   - Subsidiary Legislation: Does not apply  
   - Principal Legislation: not answered  
   - Constitutional Provision: Two-thirds if it is not listed but three-quarters if listed

6. What is the minimum time frame required to have an amendment take effect?  
   - Subsidiary Legislation: Just needs to be printed and gazetted – could be easily done within days  
   - Principal Legislation: After the Governor General’s assent it needs to be printed and gazetted – two weeks. (Governor General does not tend to hold up the process) If the Act is silent, then it must be proclaimed – Proclamations takes longer and can be overlooked.  
   - Constitutional Provisions: Same as Principal Legislation and depends on urgency

7. What is the legal capacity to deal with these measures?  
   - There are two legal draughtsmen

Comments  
In general, the will of the Minister and the urgency of the matter are the main determinants of the speed that an amendment takes to be made. With full attention, the process could take two months. Socially sensitive
areas and political will usually require more debate and sub-committee involvement, which could hold up the process.

The legal capacity of the Department, with two draughtsmen, is adequate. Budget time is busiest up to end of April. After this time it would be feasible.

For administrative changes that do not require changes in the legislation, just a meeting of the association in question is required and their rules followed. This is specific to each body and their internal memorandum.

**Responses to Questionnaire on the Removal of Restrictions Inconsistent with Chapter 3 of the Revised Treaty**

Territory: St. Vincent & the Grenadines  
Date: April 4th, 2001  
Interviewee: Ms Ruby Brown, Legal Draughtsperson  
Contact Tel: 784-456-1762  
Interviewer: Kimberly Erriah  
Mode of interview: Telephone interview from Trinidad

1. **Who would propose an amendment?**  
   • Ministry responsible - for any type of legislation

2. **What would be the minimum time taken to draft an amendment?**  
   • Subsidiary legislation changes could be done in one day if not complex  
   • Principal legislation changes depend on the complexity of the Act and the nature of the change but in most cases this can be done in one week to one month  
   • Constitutional Provisions – can be done quickly depending on the complexity of the legislation

3. **What would be the minimum time required to have it presented in Parliament?**  
   • Subsidiary Legislation: Does not need to be presented  
   • Principal Legislation: Depends on who is piloting it and the urgency – but can happen within two weeks  
   • Constitutional Provisions: Depends on urgency and may require a Referendum

4. **What would be the minimum time required to have it debated in Parliament?**  
   • Subsidiary Legislation: Does not apply  
   • Depends on urgency – all readings could be completed in one day but in general would depend on the circumstances – sensitive areas could take a long time but not because of technical limitations. The amendment may be referred to a Committee for discussion and this can delay the process. One month is a conservative estimate and depends on social sensitivity.  
   • Constitutional Provisions: Depends on urgency

5. **What is the majority required to have an amendment passed?**
6. What is the minimum time frame required to have an amendment take effect?
   - Subsidiary Legislation: Just needs to be printed and gazetted – could be easily done within days
   - Principal Legislation: After the Governor General’s assent it needs to be printed and gazetted – two weeks.
   - Constitutional Provisions: Same as Principal Legislation and depends on urgency

7. What is the legal capacity to deal with these measures?
   - There is one legal draughtsman so far.

Comments
In general, the will of the Minister and the urgency of the matter are the main determinants of the speed that an amendment takes to be made. Even with full attention, the process could take many months depending on the complexity of the amendment to be made. Socially sensitive areas and political will influence the need for more debate and Committee referral, which could hold up the process. The legal capacity of the Department, with one draughtsman will only be adequate if this is all the person is working on.

For administrative changes that do not require changes in the legislation, just a meeting of the association in question is required and their rules followed.
Responses to Questionnaire on the Removal of Restrictions Inconsistent with Chapter 3 of the Revised Treaty

Territory: Trinidad & Tobago
Date: March 28th, 2001
Interviewee: Ms Jonetta Jeet, Legal Draughtsperson
Contact Tel: 868-623-5886
Interviewer: Kimberly Erriah
Mode of interview: Telephone interview from Trinidad

1. Who would propose an amendment?
   • Ministry responsible - for any type of legislation

2. What would be the minimum time taken to draft an amendment?
   • Subsidiary legislation changes could be done in one day if not complex
   • Principal legislation changes depend on the complexity of the Act and the nature of the change but in most cases this can be done in one week to one month
   • Constitutional Provisions – as above

3. What would be the minimum time required to have it presented in Parliament?
   • Subsidiary Legislation: Does not need to be presented
   • Principal Legislation: Depends on who is piloting it and the urgency – but can happen within two weeks
   • Constitutional Provisions: Depends on urgency and may require a Referendum

4. What would be the minimum time required to have it debated in Parliament?
   • Subsidiary Legislation: Does not apply
   • Depends on urgency – It can be completed in one day. Referral to a Committee for discussion can delay the process. It can however be completed. It can be done in the same sitting but the social sensitivity is a relevant issue.
   • Constitutional Provisions: Depends on urgency and sensitivity

5. What is the majority required to have an amendment passed?
   • Subsidiary Legislation: Does not apply
   • Principal Legislation: simple majority
   • Constitutional Provision: A two-thirds majority is required. If it is an entrenched right being affected a three-quarters majority is required.

6. What is the minimum time frame required for an amendment take effect?
   • Subsidiary Legislation: Just needs to be printed and gazetted – could be easily done within days
   • Principal Legislation: After the President's assent it needs to be printed and gazetted – two weeks. The major cause for delay in assents is the existence of a backlog. Alternatively the amendment comes into force by presidential proclamation. This takes much longer, years in some cases and again depends on priority. Proclamation is preferred where there is no administrative machinery in place to deal with the amendment at the time of its passage. As such the amendment is proclaimed at a later date.
   • Constitutional Provisions: Same as Principal Legislation and depends on urgency

7. What is the legal capacity to deal with these measures?
   • There are eleven legal draughtsmen and a Law Review Commission.

Comments
In general, the will of the Minister and the urgency of the matter are the main determinants of the speed that an amendment takes to be made. With full attention, the process could take a few months depending on the complexity of the amendment to be made. Socially sensitive areas and political will influence the need for more debate and Committee referral, which could hold up the process. The legal capacity of the Department, with eleven draughtsmen is adequate and if this is all the department or part thereof is working on.
For administrative changes that do not require changes in the legislation, just a meeting of the association in question is required and their rules followed.
Responses to Questionnaire on the Removal of Restrictions Inconsistent with Chapter 3 of the Revised Treaty

Territory: Jamaica
Date: March 22nd, 2001
Interviewee: Mrs Hyacynth Lindsay, Chief Parliamentary Counsel
Contact Tel: -876-906-4908
Interviewer: Noel Watson
Mode of interview: Telephone interview from Trinidad

1. Who would propose an amendment?
   - Ministry responsible - for any type of legislation

2. What would be the minimum time taken to draft an amendment?
   - Subsidiary legislation changes could be done in one day if not complex
   - Principal legislation changes depend on the complexity of the Act and the nature of the change but in most cases this can be done in one week to one month
   - Constitutional Provisions – as above

3. What would be the minimum time required to have it presented in Parliament?
   - Subsidiary Legislation: Does not need to be presented
   - Principal Legislation: Depends on who is piloting it and the urgency – but can happen within two weeks
   - Constitutional Provisions: Depends on urgency and may require a Referendum

4. What would be the minimum time required to have it debated in Parliament?
   - Subsidiary Legislation: Does not apply
   - Depends on urgency – It can be completed in one day. Referral to a Committee for discussion can delay the process. It can however be completed. It can be done in the same sitting but the social sensitivity is a relevant issue.
   - Constitutional Provisions: Depends on urgency and sensitivity

5. What is the majority required to have an amendment passed?
   - Subsidiary Legislation: Does not apply
   - Principal Legislation: simple majority
   - Constitutional Provision: A two-thirds majority is required. If it is an entrenched right being affected a three-quarters majority is required.

6. What is the minimum time frame required for an amendment take effect?
   - Subsidiary Legislation: Just needs to be printed and gazetted – could be easily done within days
   - Principal Legislation: After the assent it needs to be printed and gazetted – two weeks. Constitutional Provisions: Same as Principal Legislation and depends on urgency

7. What is the legal capacity to deal with these measures?
   - There are twelve legal draughtsmen.

Comments
In general, the will of the Minister and the urgency of the matter are the main determinants of the speed that an amendment takes to be made. With full attention, the process could take a few months depending on the complexity of the amendment to be made. Socially sensitive areas and political will influence the need for more debate, which could hold up the process.

The legal capacity of the Department, with twelve draughtsmen, is adequate.

For administrative changes that do not require changes in the legislation, just a meeting of the association in question is required and their rules followed.
Responses to Questionnaire on the Removal of Restrictions Inconsistent with Chapter 3 of the Revised Treaty

Territory: Suriname
Date: April 05, 2001
Interviewee: Ms. Soeknandan,
Contact Tel: (597) 473841 or 410171
Interviewer: Noel Watson
Mode of interview: Telephone interview from Trinidad

1. Who would propose an amendment?
   - The Minister responsible for service sector in question e.g. movement of capital needs Minister of Finance. In the case of Cambios in Suriname the relevant legislation is a by-law and can be amended quickly by the President of the Central Bank. If it was something to do with the Companies Act, it would have to be sent to Council of Ministers, the President, and the State Council (which advises the President) before reaching the National Assembly.

2. What would be the minimum time taken to draft an amendment?
   - Depends on the complexity of the Act and the nature of the change but in most cases this can be done in less than one week and no more than a month. The draft would be prepared by relevant Ministry and sent to Ministry of Justice and Police for vetting and refinement (could easily be done in days).

3. What would be the minimum time required to have it presented in the General Assembly?
   - Subsidiary Legislation: Does not need to be presented – requires only the signature of the relevant Minister
   - Principal Legislation: Depends on urgency and/or time of the year. It coincides with budget debate or elections, it could take longer as it may not be priority. In general this could take 4-8 weeks by the time it goes through the whole process of going to the Council of Ministers then to the President then to the State Council then back for amendments then back to the Councils again before going to the General Assembly.

4. What would be the minimum time required to have it debated in the General Assembly?
   - Could be done in one day depending on the amendment – could take longer too
   - Constitutional Provisions: not relevant in this case

5. What is the majority required to have an amendment passed?
   - Simple majority

6. What is the minimum time frame required to have an amendment take effect?
   - President ratifies after approval of Assembly. After it is passed then it has to be printed and gazetted. This whole process can take place in less than a week.

7. What is the legal capacity to deal with these measures?
   - Nine legal draughtsmen in the Ministry of Justice and Police but each Ministry has at least one person that can do a rough draught

Comments
In general, the will of the Minister and the urgency of the matter are the main determinants of the speed that an amendment takes to be made. With full attention, the process could take as little as two weeks (for simple amendments that require either a Ministerial or Presidential Order) and as much as four months for amendments that have to go to the National Assembly. Socially sensitive areas usually require more debate, which could hold up the process.

The legal capacity of the Ministry of Justice and Police, with nine legal draughts persons, is adequate. However, a rough draft of the amendment must first be prepared by the Ministry to which the service sector
is related (e.g. Ministry of Finance deals with banking issues) and then passed to the Ministry of Justice and Police for refinement.

Suggestion: Need to get one Ministry (organ) to put all amendments together and send them all to the Council of Ministers (Ministry could be Trade and Industry). Finance and Trade and Industry could be the toughest Ministries to deal with. Deadlines should be set. The whole thing could be done in six months this way.

For administrative changes that do not require changes in the legislation, just a meeting of the association in question is required and their rules followed.
Responses to Questionnaire on the Removal of Restrictions Inconsistent with Chapter 3 of the Revised Treaty

Territory: Guyana
Date: April 05, 2001
Interviewee: Mr. Fung-A-Fat, Deputy CPC, Attorney General’s Office
Contact Tel: 592-226-2616-8
Interviewer: Noel Watson
Mode of interview: Telephone interview from Trinidad

1. Who would propose an amendment?
   • Minister or Department responsible for any type of legislation

2. What would be the minimum time taken to draft an amendment?
   • Depends on the complexity of the Act and the nature of the change but in most cases this can be done in one week to one month – regardless of the type of legislation

3. What would be the minimum time required to have it presented in Parliament?
   • Subsidiary Legislation: Does not need to be presented – requires only the signature of the relevant Minister
   • Principal Legislation: Depends on urgency and/or time of the year. Two weeks.
   • Constitutional Provisions: Depends on urgency

4. What would be the minimum time required to have it debated in Parliament?
   • Subsidiary Legislation: Does not apply
   • Principal Legislation: Three readings are required and usually needs a minimum of two sessions. In general this could take up to two months – could be done in one day.
   • Constitutional Provisions: Depends on urgency

5. What is the majority required to have an amendment passed?
   • Subsidiary Legislation: Does not apply
   • Principal Legislation: Simple majority
   • Constitutional Provision: Two-thirds majority of all elected members.

6. What is the minimum time frame required to have an amendment take effect?
   • Subsidiary Legislation: Just needs to be printed and gazetted – could be easily done within two weeks
   • Principal Legislation: After President’s proclamation it needs to be printed and gazetted – two weeks. (President does not tend to hold up the process)
   • Constitutional Provisions: Same as Principal Legislation and depends on urgency

7. What is the legal capacity to deal with these measures?
   • There are only five draughts persons which is insufficient and they have to help out elsewhere

Comments
In general, the will of the Minister and the urgency of the matter are the main determinants of the speed that an amendment takes to be made. With full attention, the process could take as little as two weeks (as was the case with some recent Election Bills) and as much as four months. Socially sensitive areas usually require more debate, which could hold up the process.

The legal capacity of the Department, with five draughtsman is somewhat of a constraint, especially if several amendments were to be required simultaneously.

For administrative changes that do not require changes in the legislation, just a meeting of the association in question is required and their rules followed.
Responses to Questionnaire on the Removal of Restrictions Inconsistent with Chapter 3 of the Revised Treaty

- Territory: Montserrat
- Date: April 9th, 2001
- Interviewee: Mr. Colin Meade and The Honorable Attorney-General Mr Bryan Cottle
- Contact Tel: 664-491-4686
- Interviewer: Kimberly Erriah
- Mode of interview: Telephone interview from Trinidad

There is currently no legal draughts person in Montserrat. However the Attorney General advised as follows:

1. Who would propose an amendment?
   - The Ministry responsible or the Attorney General - for any type of legislation

2. What would be the minimum time taken to draft an amendment?
   - Subsidiary legislation changes could be done in one day if not complex
   - Principal legislation changes depend on the complexity of the Act and the nature of the change but in most cases this can be done in one week to one month
   - Constitutional Provisions - to be obtained from London via an Order in Council.

3. What would be the minimum time required to have it presented in Parliament?
   - Subsidiary Legislation: Some are subject to Parliamentary negative resolution; others do not need to be presented
   - Principal Legislation: This always depends on who is piloting it and the urgency. The minimum time is 2 months because the nature of the Parliament here is that it sits only once a month (Cabinet sits once a week) - but can happen within two weeks
   - Constitutional Provisions: In all cases this requires an Order in Council from London.

4. What would be the minimum time required to have it debated in Parliament?
   - Subsidiary Legislation: minimum two months by virtue of the sittings. Depends on urgency. Referral to a Committee for discussion can delay the process beyond this time.

5. What is the majority required to have an amendment passed?
   - Subsidiary Legislation: simple negative resolution in some cases and not applicable in others
   - Principal Legislation: simple majority
   - Constitutional Provision: as ordered by the Order in Council from London.

6. What is the minimum time frame required for an amendment take effect?
   - Subsidiary Legislation: Just needs to be printed and gazetted - normally takes 2 weeks.
   - Principal Legislation: Once assented by the Governor it needs to be printed and gazetted - two weeks unless the amendment is to come into force by the Governor's promulgation and this while given at a later date is very often of retroactive effect.

8. What is the legal capacity to deal with these measures?
   - There is currently no draughtsman, but the position is for one attorney.

Comments
In general, the will of the Minister and the sittings of Parliament or the Legislative Council are the main determinants of the speed that an amendment takes to be made. With full attention, the process could take one year depending on the complexity of the amendment to be made. Socially sensitive areas and political will influence the need for more debate, which could delay the process. The legal capacity of the Department, with no draughts person, may be inadequate.
N.B. Constitutional changes are the only ones requiring consent and guidance from London.
For administrative changes that do not require changes in the legislation, just a meeting of the
association in question is required and their rules followed.