

MESSAGE FROM THE PRESIDENT  
HIS EXCELLENCY  
DR. NICHOLAS J. O. LIVERPOOL, D.A.H., O.C.C

ON THE OCCASION OF THE  
OPENING OF THE FIRST MEETING  
OF THE SECOND SESSION OF THE EIGHTH PARLIAMENT  
ON WEDNESDAY, 29<sup>th</sup> June, 2011

*OECS Economic Union*

Madam Speaker

Honourable Members of the House of Assembly

Madam Speaker

I thank you most sincerely for the invitation which you extended to my wife to attend this sitting, and to me to address Members of this Honourable House.

The topic which I will deal with today is "The OECS Economic Union". I regard the signing of this Treaty as a very important development in the integration process of the islands of the OECS. I am aware that Honourable Members are fully knowledgeable of the contents of the Treaty which established the Union, as the Honourable Prime Minister in a Statement to Parliament on Monday, 29<sup>th</sup> March 2010, at the Second Meeting of the First Session of the 8<sup>th</sup> Parliament laid on the Table of this Honourable House a draft of the Treaty.

What I am attempting to do today, is to assist Honourable Members in the process of educating the general public by pointing out that we have embarked on a new journey which will affect the lives of every citizen of this country, and that it is absolutely necessary to grasp and fully comprehend the essentials of this important document. The Treaty must be studied carefully with our

Constitution if one is to understand the extent of the new governance structures which will henceforth prevail in this country and the OECS region.

## INTRODUCTION

Madam Speaker

Honourable Members

At the 52<sup>nd</sup> Meeting of the OECS Authority convened in St. George's, Grenada, on 24<sup>th</sup> January, 2011, OECS leaders focussed on a new beginning for the OECS as a regional integration organisation. That meeting came on the heels of a defining moment in the region's history with the official coming into force on 21<sup>st</sup> January, 2011 of the Revised Treaty of Basseterre which established the Organisation of Eastern Caribbean States Economic Union. The Treaty includes an Annex on the Settlement of Disputes, and a Protocol which formally established the Economic Union. This New Treaty replaces the 1981 Treaty of Basseterre.

There are seven full members of the Union, namely – Antigua and Barbuda, the Commonwealth of Dominica, Grenada, Montserrat, Saint Christopher and Nevis, Saint Lucia and Saint Vincent and the Grenadines. Anguilla and the British Virgin Islands are associate members.

When the Federation of the West Indies came to an end in 1962 both Jamaica and Trinidad and Tobago opted to become independent countries. The British Caribbean Union which comprised the remainder of the units of the Federation remained in effect until 1966 when Barbados also became independent. That left the OECS countries to form a new organisation among themselves. The UK government devised a new arrangement called Associate Statehood, by introducing a new Constitution which gave each island government, authority over its internal affairs, but reserved decisions relating to foreign affairs and external defence to be taken in London. Under this arrangement Dominica became an Associated State on 1<sup>st</sup> March, 1967.

The West Indies Associated States was formed with headquarters in St. Lucia, in 1967. In that same year a new court structure was established (The West Indies Associated States Supreme Court). That Court consisted of a Court of Appeal, with headquarters in St. Lucia, and High Courts in all the other islands. This loose relationship continued until the Treaty of Basseterre was signed in 1981, and the OECS Supreme Court came into being. The Agreement establishing the Eastern Caribbean Central Bank (1983), upgraded what was essentially a Currency Authority into a fully-fledged Central Bank.

In 1989 an Export Development Unit of the OECS was established in Dominica, as part of a new approach to spread the face of the integration movement, but by that time several other common service initiatives had been formed. Among these were the joint procurement of pharmaceuticals, joint diplomatic representation in London, Ottawa, Brussels and Geneva, as well as coordinated and cooperative approaches to education, health, sports, agriculture, tourism, civil aviation, export development, the environment, maritime affairs and telecommunications. These various measures impacted beneficially on the lives of our citizens and became a catalyst for moving further forward together.

Gradually closer union among the Associated States was being achieved. What was sadly lacking, however, was the ability and willingness to implement at the local level, the decisions which had been taken at the OECS regional level. Although, therefore, there was a common intention to move towards closer cooperation, this intention could not be realised until one could feel with certainty that decisions taken by the "Heads" would be implemented in their local jurisdictions.

A Task Force was established in November, 2004 under the chairmanship of Sir K. Dwight Venner. It reported in May 2007. The report identified the fundamental characteristics which were shared by the member countries, namely, the homogeneity of the populations, their geographic location, their common historical antecedents, and the social commingling between their nationals; and recommended that the member countries should strengthen their

existing arrangements, as well as create new ones to meet the modern and intensified challenges which faced them in the domestic, regional and international arenas. Based on that report a “New OECS Draft Treaty” was circulated in 2008 together with a helpful question and answer document on “Frequently Asked Questions”.

The draft Treaty was launched at the State House by means of a public dialogue which was very widely publicised. Thereafter a series of public sessions followed with key stakeholders including the farmers, the youth, and the public servants. Special sessions were held throughout the country, and I am informed that copies of the draft Treaty were widely circulated.

Madam Speaker

Honourable Members

Although the OECS Economic Union formally came into being on 21<sup>st</sup> January 2011, it was not the first time that Dominica had been part of a similar arrangement. The Leeward Islands had comprised one government from 1871. Together they formed one colony with Dependencies in the unit territories. The seat of the colony was in Antigua and all dependencies were represented in the “Federal” Government. The Federal Government had exclusive jurisdiction to legislate on seventeen matters which were listed in the Act of 1871. All other matters were the province of the legislatures of the Dependencies. In 1940 Dominica opted to become a separate colony as part of the Windward Islands; but the federal status continued for the remainder of the Leeward Islands until 1956 when each Dependency was permitted to join the West Indies Federation as a separate government.

During the four years of ‘Federation’ from 1958 to 1962, Dominica sent two elected representatives, Mr. E O Leblanc and Mrs. Phyllis Shand Allfrey, and two nominated Senators, Mr. Austin Winston and Mr. J B Charles to the Federal Parliament in Port-of-Spain, Trinidad. One of the elected representatives (Mrs. Allfrey) was chosen to be Minister of Labour and Social Services in the

government of the Federation. She was the only female Minister of the Federal Government which effectively came to an end with the withdrawal of Jamaica and Trinidad and Tobago.

Madam Speaker

Honourable Members

Four major areas have been identified as being critical to the success of this new Union. They are law and order, transportation, energy and education. Sir K. Dwight Venner, Governor of the Eastern Caribbean Central Bank stresses that, the critical elements for success in transforming these economies, now we have started down this path, will be the following:

1. Political vision, commitment, direction, decision making, oversight, monitoring and insistence on implementation and the meeting of deadlines;
2. Technical and administrative capacity, in both the public and private sectors; and
3. Widespread and broad based social consensus and accountability.

#### **INSTITUTIONS OF THE ORGANISATION**

Madam Speaker

Honourable Members

The Treaty recognises as Institutions of the OECS –

- (a) the Eastern Caribbean Supreme Court, which has since 1967 served the OECS region with distinction,

(b) the Eastern Caribbean Central Bank, which since its establishment as a Currency Authority has worked steadfastly to maintain the stability of the OECS dollar, and

(c) the Eastern Caribbean Civil Aviation Authority, which continues to give advice and direction on civil aviation matters in the OECS.

The Treaty also empowers the Authority, by unanimous decision, to add to this list any governmental entity whose functions relate to all the full Member States. It was envisaged that all domestic legislation to give effect to the Revised Treaty would have been enacted no later than June 18<sup>th</sup> 2011; that all actions necessary to give full effect to the free movement of people within the countries of the Union will be completed by August 1<sup>st</sup> 2011 at the very latest; and that a driver's licence issued in one OECS country will be accepted for use in another country for short term visits.

Under the provisions of The Treaty Member States give an undertaking to enact legislation to delegate legislative competence in very specific areas to the central organ of the Union.

Member States also give an undertaking to enact the necessary legislation to receive Acts of the Organisation made by the OECS Authority; and Regulations and Orders made by the Council of Ministers so that those Acts, Regulations and Orders will become part of the local law in the Member States. While it may appear at first glance that member States may have to overcome constitutional hurdles to give effect to the provisions of the Treaty, and may even have to give up some of their sovereignty and authority, no Member State is under an obligation to amend its Constitution, and therefore its obligations as to implementation are, to that extent, circumscribed accordingly.

The specific areas of legislative competence to be delegated to the Organisation are in respect of matters relating to the common market, monetary policy, trade policy, maritime jurisdiction and boundaries and civil aviation. It is therefore

incumbent on the local legislatures to take action on these and other matters contained in the Treaty whenever the circumstances require them to do so.

Article 14 (2) of the Treaty gives the Organisation overriding legislative competence, in relation to common commercial policy, environmental policy and immigration policy, if these powers have been delegated to the Authority by the Member States. This means that the legislation made by the Authority on those matters will take precedence over local laws. This new arrangement is meant to facilitate the effective coordination of policies in these three important areas, and also the ability to implement them in a timely fashion.

Madam Speaker

Honourable Members

The Governance arrangements are contained in Article 7 of the Treaty, and I will discuss them briefly in turn.

They are –

1. the Authority of Heads of Government,
2. the Council of Ministers,
3. the Assembly,
4. the Economic Affairs Council and
5. the Commission.

These Organs of the Organisation are to perform their functions and act within the limits of the powers conferred upon them by the Treaty, the Dispute Settlement Annex and the Economic Union Protocol, which are all contained in one document.

## THE AUTHORITY OF HEADS OF GOVERNMENT

This is the supreme policy-making organ of the Organisation. It exercises the general direction and control of the performance of the functions of the Organisation. It has the power to make decisions on all matters within its competence, but those decisions (other than decisions on procedural matters) require the affirmative vote of all full Member States who are present and voting at the meeting at which those decisions are taken.

But those decisions will have no force and effect until the Heads of Government of those full Member States who were not present at the meeting have, within the period allowed for consideration of the matter, expressed either support for, or abstention in relation to that decision.

However, the absence of a response from a Head of Government by the end of the period allowed for consideration is to have the same effect as if that Head of Government had been present at that meeting and had abstained from voting.

For this purpose, the consideration period ends thirty days after that Head of Government has received advice on the decision from the OECS Commission.

Decisions on procedural matters can be made by a majority of the members present and voting at the meeting; but a decision on whether or not a matter is procedural is not a decision on a procedural matter.

When a vote is taken, a Member State which is in arrears with its financial contributions for at least a full year is to be deemed to be abstaining and not present and voting on matters falling for consideration; but a majority of the other Member States may permit that Member State to vote.

The Authority is empowered to establish the financial arrangements necessary for meeting the expenses of the Organisation, and it is the final authority on questions relating to those financial affairs.

## **THE COUNCIL OF MINISTERS**

The Council of Ministers is intended to function according to the subject area which is under consideration. This body is responsible to the Authority, and must take action on any matter referred to it by the Authority.

The Council is responsible for considering and reporting to the Authority on recommendations of the Commission for making Acts of the Organisation; and also for enacting into law, regulations to give effect to Acts enacted by the Authority.

Regulations made by the Council have the same binding force as the Acts which authorise them. The rules governing the unanimity of decisions, the absence of Member States from meetings, procedural matters, and the ability to determine its own procedure are the same as they apply to the Authority.

## **THE ASSEMBLY**

Madam Speaker

Honourable Members

I turn now to the Assembly. This is an entirely new body, and is by far the most important Organ of the Organisation which will directly affect Honourable Members, although Honourable Members will have an opportunity to influence any decisions which are to be taken at the regional level.

The main function of the Assembly is to serve as a filter for legislation to be passed by the Authority. Ideally it should examine critically, scrutinise and amend if necessary, all legislation which is placed before it. It is to be a replica of national legislatures with the government and opposition being represented in the same proportion as at national level. In addition to reviewing legislation to

be passed by the Authority, the Assembly could also play a significant role when it receives annual statements from the Heads of the other institutions of the Organisation.

Each Parliament of an independent State is entitled to elect five of its members to the Assembly. The legislatures of non-independent Member States are to elect three members. The membership must include at least two elected government members (including the Head of Government) and at least one opposition member (including the Leader of the Opposition). If there are no elected opposition members in the local legislature, the Head of State of that Member State is empowered to designate a person to represent the opposition party or parties.

Where there is uncertainty as to the distribution of seats, or disagreement as to the selection of members, this matter is to be resolved by the local legislature. The tenure of membership of the Assembly is two years from the date on which the member was elected, or until the next general election for the local legislature which he represents, whichever is shorter.

When it is first convened the Assembly must elect from among eligible citizens of the Member States, a Speaker and a Deputy Speaker to preside over its deliberations. An eligible citizen is defined as a Citizen or Belonger of a Member State who is not disqualified from election to the local legislature, and who is not a member of the local legislature.

The terms and conditions of service of the Speaker and Deputy Speaker, and the expense allowances to be paid to Members of the Assembly are to be governed by rules and regulations approved by the Authority. These rules and regulations may allocate the relevant cost among the Member States of the Organisation in proportions to be determined by the Authority.

## THE ECONOMIC AFFAIRS COUNCIL

This Council is to be constituted by Ministers who have been assigned the responsibility of overseeing the Economic Union Protocol. This should normally be the Ministers responsible for Trade. The Protocol replaces the Annex to the Treaty of Basseterre, and also broadens the scope and range of activities which the member countries will jointly undertake. Article 2 of the Protocol sets out the objectives of the Economic Union, and also lays down specific objectives by which Member States are to be guided.

## THE COMMISSION

Madam Speaker

Honourable Members

This Organ is only partially new, in the sense that it merely broadens the scope of the existing OECS Secretariat; but it is also a very important Organ because it is the implementing arm of the Authority. It comprises the Director-General as Chairman, and Commissioners who are to be representatives of ambassadorial rank from each Member State. They are to be based in their respective States. Their main function will be to represent the Organisation in the Member States and to monitor national compliance with the decisions of the Organisation. The Commission will also audit and report to the Authority on the activities of the rest of the Organisation.

The Commission incorporates the existing OECS Secretariat, which will provide administrative support to the Commission.

Some specific duties have been assigned to the Commission. These include making reports of its activities, submitting an annual report to the Authority, keeping the functioning of the Organisation under continuous review, making recommendations to the Authority and the Council of Ministers on the making of

Acts and Regulations, and to oversee the draft agenda for meetings of the Authority and submit it to the Authority for approval.

## **THE ANNEX ON THE SETTLEMENT OF DISPUTES**

The Annex to the Treaty makes provision for the settlement of any disputes which may arise. If all eligible parties to the dispute agree, they may have recourse to the following methods: good offices, conciliation, arbitration and failing these, adjudication by the Court of Appeal of the Eastern Caribbean Supreme Court. However, even during the course of these methods of arriving at a settlement, consultations may take place between the parties with a view to resolving the issue which divides them.

### ***Good Offices***

The eligible parties can always agree to resort to the use of the 'good offices' of a third party to assist in settling the dispute. This process may commence at any time with the agreement of the parties, but may be terminated at any time at the instance of any party to the dispute. The decision of the third party is not binding upon the parties.

### ***Conciliation***

The process of conciliation is more formal than that of Good Offices. A list of Conciliators consisting of persons who enjoy the highest reputation for fairness, competence and integrity must be maintained by the Chief Registrar of the OECS Supreme Court. Each Member State is entitled to nominate two persons to the list, and others may be added by the Chief Justice at his discretion.

The Conciliation Commission is to determine its own procedure, and must report within six months of its constitution. It is important to note that the report of a Conciliation Commission is not binding upon the parties.

### *Arbitration*

The Chief Registrar must maintain a list of persons who qualify for membership of an Arbitral Tribunal. The list is to be chosen strictly on the basis of impartiality, reliability and sound judgment, from persons who must have expertise or experience in law, international trade, or other matters covered by the Treaty.

Each Member State is entitled to nominate two persons to the list and the Chief Justice may add others at his discretion.

The Tribunal decides its own procedure. It must report within six months of its constitution; and that report, unlike that of the Conciliation Commission, is binding on the parties.

### *Adjudication*

This is a process which is to be undertaken by the Eastern Caribbean Court of Appeal. The Court is to determine its own procedure, and its decision is binding on the parties and is not subject to appeal. A judgment or award of the Court of Appeal may include monetary compensation to a complainant State, an order for the party complained against to take measures to comply with that party's obligations under the Treaty; a declaration of the right of a complainant State to exercise any right of redress available under international law; and in the case of a complaint against the Organisation, the annulment or voiding of any wrongful or ultra vires act of an Organ of the Organisation.

The Court may also give an Advisory Opinion to the Authority or any Organ of the Organisation concerning the interpretation of the Treaty, but that Opinion is not binding on the Organ which requests it, or on any Member State.

## THE PROTOCOL

The Protocol establishes the Economic Union, and is obviously intended to deepen the process of integration among Member States.

Article 2 of the Protocol sets out the objectives of the Economic Union. They include the creation of a single financial and economic space comprising Protocol Member States, and the enhancement of international competitiveness by the convergence and co-ordination of their economic policies.

The free movement of citizens is provided for in the Protocol, but it also contains safeguards concerning free movement in recognition of social, economic and other factors which may arise as a result of such movement. A Protocol Member State has the right to regulate the movement of such citizens, subject to the approval of the Authority.

## CONCLUSION

Madam Speaker

Honourable Members

I feel confident that Honourable Members realise that this New Treaty promises to create a more closely knit society in the Eastern Caribbean with boundless possibilities if its provisions are clearly understood, acted upon and closely adhered to.

I think I have said enough to indicate that a heavy responsibility rests on the shoulders of Honourable Members to continue the education of the general public on the effect which this Treaty will have on their lives, and I hope and expect that this process will continue unabated.

The governments of the OECS region have successfully designed, and are about to put into operation potentially efficient machinery for the economic and social integration of the OECS. They must not however, neglect the institutions that will drive the machinery to make it fully productive and meaningful. I refer here to the public services that will be charged with the task of shaping the decisions and implementing them. They must be encouraged to adopt the broader vision of serving the common interest of the OECS and all its people. Time is not on our side, and we cannot afford to repeat the mistakes and omissions of the past in our several attempts at regional integration.

It only remains for me to extend every good wish to the Members of this Honourable House for a fruitful, enjoyable and productive session.

I thank everyone present for the courtesy of their attention.