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TEL/CSG 2005/1/REP.



REPORT OF THE FIRST MEETING OF THE CARICOM SUB-GROUP ON TELECOMMUNICATIONS



CHAIRPERSON:

Senator the Hon. Dr. Edmond Mansoor
Minister of State in the Office of the
Prime Minister
Office of the Prime Minister
ANTIGUA AND BARBUDA

VENUE AND DATE:

Jolly Beach Resort
Antigua and Barbuda
14-15 March 2005

CO-CHAIRPERSON:

Mr. Eustace Phillip
Telecommunications Officer
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ANTIGUA AND BARBUDA

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INTRODUCTION

The First Meeting of the Sub-Group on Telecommunications Services was held at the Jolly Beach Resort, Antigua and Barbuda, during 14-15 March 2005. It was convened through the joint efforts of the Government of Antigua and Barbuda, the CARICOM Secretariat and the Inter-American Development Bank. The latter provided the financial resources to cover the cost of the Conference Room Rental, Coffee Breaks and Rental of Equipment.

Over 60 delegates attended the Meeting representing the industry's incumbent and new entrant suppliers, principal users of the service, regulators and policy-makers. Given the tension which exists in the sector as a result of the liberalisation from a monopoly market structure to an oligopoly structure, the Meeting's planners felt that at most it would have been exploratory. However, the participation was so keen that the Meeting has set itself some specific targets to achieve the objectives of the CARICOM Single Market and Economy (CSME). More importantly, there was a consensus among the delegates that every effort should be made to ensure that there is full liberalisation of the sector within the CSME by 1 January 2006.

REPRESENTATION

A List of Delegates at this Meeting is at **Annex I to this Report**.

OPENING REMARKS

There was a formal Opening Session which was covered by the media and lasted for 45 minutes.

Dr Gem Fletcher, Programme Manager Sectoral Programmes, CARICOM Secretariat, welcomed the delegates and performed the function of Mistress of Ceremonies. She then invited the Hon. Dr Jacqui Quinn-Leandro, Minister of Labour, Public Administration and Empowerment of the Government of Antigua and Barbuda to give a few remarks.

Dr Quinn-Leandro welcomed the visiting delegates to Antigua and Barbuda. Recognising that it was the first of a series of meetings to be held to assess, analyse and strategise on how best to liberalise telecommunications in the CSME, she admonished delegates to incorporate Information and Communications Technology (ICT) into the matrix of variables being considered. She made reference to the consultations between the CSME Unit of Barbados and the Cabinet of Antigua and Barbuda the previous week. In addition, Dr. Quinn-Leandro highlighted the phenomenal changes, especially in technology and innovation that have taken place in the telecommunications sector of the

past decade which have created new products that ultimately resulted in increased customer choices and flexibility in accessing and using the internet.

In concluding, Dr Quinn-Leandro informed the Meeting that the Baldwin Spencer administration was committed to working with the Caribbean Community (CARICOM) in establishing the most viable linkages within the telecommunications sector which would make the CSME fully functional.

Senator, the Hon. Dr. Edmund Mansoor, Minister of State attached to the Office of the Prime Minister, was invited to give the keynote address. Dr Mansoor also extended a warm welcome to the visiting delegates and expressed his heartfelt appreciation to the large contingent of local delegates (46 present during the Opening Session) who took time off from their busy schedules to attend the Meeting. In laying a foundation to his presentation, the Minister indicated that his aim was to communicate some thoughts on the current state of the telecommunications sector and give a few perspectives on the importance of ICTs. He introduced the hypothesis that within the Pan-Caribbean Perspective the citizens always had the burning need to communicate. This need was in the past facilitated by radio first then by television which were made available to both the 'haves' and the 'haves-not'. However, with the emergence of the knowledge-based societies, this universal access to ICTs is not being realised.

Reminding delegates of International Telecommunication Union's (ITU) theme for 2005 - **Creating an Equitable Information Society** - Dr Mansoor stressed that the CSME must facilitate the development of competitive Community nationals. Persons must be able to use knowledge to enable them to achieve social and economic development. However he cautioned that the challenge was how to familiarise the Community nationals with the use of the most appropriate technology so that they can establish and raise business standards and enjoy greater social, cultural, and economic wealth.

Dr Mansoor called for a knowledge-based CSME in which all citizens can use ICTs without necessarily becoming ICT experts. He also called for all citizens to have accessibility to ICTs. He also hypothesised the connectivity was identical or equivalent to economic opportunities, and that connectivity to broadband was identical or equivalent to economic opportunity. Therefore high priority should be given to Community nationals accessing and using the traditional media and ICTs. He highlighted a national promotional project between the Government of Antigua and Barbuda and the Antigua and Barbuda Institute of Technology which sought to harness Antigua and Barbuda's capability in ICTs. He informed the Meeting that the College was working towards offering eight Degrees and six Associate Degrees. He stressed that the integration of ICT into the daily life was no longer an option but a necessity.

In closing, Dr Mansoor contended that there were questions which the Meeting had to resolve if its deliberations would be successful. These were -

- (i) Why is it that international calling rates are so high in the CSME relative to those for the United States of America and the European Union?;
- (ii) International lease costs for ISPs are high due to limited access. Are regional Governments doing enough to access f.o.c systems?;
- (iii) In a liberalised CSME former monopolies continue to dominate. What are regulators doing to help new entrants?;
- (iv) Why is the rate of deployment of Y4 technologies so slow?; and
- (v) What are CARICOM Governments doing about increasing the rate of connectivity?

Dr Mansoor concluded that the First Meeting of the CARICOM Sub-Group on Telecommunications was a good starting point, and that at the end there should be harmonised regulations for telecommunications in the CSME.

Mr Selby Wilson, Telecommunications Strategist, Caribbean Telecommunication Union (CTU) gave a response and the Vote of Thanks. He suggested that with respect to connectivity, the issue was how does the CSME manage the emerging competitive environment and competitive process?. He stressed that the liberalisation of the telecommunications sector was externally and globally driven. The Region's goals and objectives should therefore be targeted for a realistic outcome which is based on the correct policy environment. This environment should address the need for adequate legislation, timely and sound pronouncements, and transparent conduct. He also stressed that what was required was a partnership between Government, the private sector and civil society. Finally, he cautioned that the 'corporate dog-fight' will not get the Region anywhere. He admonished that the actors needed to recognise the bigger picture and put the Region's interests first.

The Opening Session ended, and was followed by a 20-minute break.

Immediately after the first break, there was an informal 'get-to-know-you' session, given the large number of delegates and the unfamiliarity among themselves. From this exercise, it was recognised that many of the Chief Executive Officers from the industry was in attendance. It was also recognised that the level of participation by the regulators, especially Eastern Caribbean Telecommunications Authority (ECTEL) was low. It was further recognised that the level of participation by the policy sector was also low.

The **Secretariat representative** explained that the participation of the regulators and policy-makers was affected by financial constraints, and it is hoped that for future meetings, financial assistance can be sourced from within the sector itself.

2. **ELECTION OF CHAIRMAN**

Senator the Hon. Dr. Edmond Mansoor, Minister of State in the Office of the Prime Minister, Antigua and Barbuda and Mr. Eustace Phillip, Telecommunications Officer, Ministry of Information, Broadcasting and Telecommunications, Antigua and Barbuda were respectively elected to Chair and Co-Chair the Meeting.

3. **ADOPTION OF AGENDA**

The Agenda, as adopted by the Meeting, is attached as **Annex II to this Report**.

4. **PROCEDURAL MATTERS**

The Meeting fixed its hours of work.

5. **LEGAL FRAMEWORK FOR TELECOMMUNICATIONS SERVICES IN THE CARICOM SINGLE MARKET AND ECONOMY (CSME)**

The **Secretariat representative** explained that in order for the Single Market arrangements to be World Trade Organisation (WTO) compliant, it had to meet the requirements of the General Agreement for Trade in Services (GATS) Article 5. Essentially, this Article speaks to the operation of regional economic integration and allows for a derogation of the participating Members Most Favoured Nation (MFN) obligations to the other Members of the WTO provided that the regional economic integration is deeper and broader in its liberalisation relative to that taking place at the level of the WTO. In this regard, he explained that the CSME requires full liberalisation in order to qualify for the Provisions of GATS Article 5.

With respect to the general framework of the CSME, he pointed to the Provisions of Article 31 of the Revised Treaty which dealt with the treatment of Monopolies. He explained that regional officials had agreed that where Monopolies exist in the interest of the public, they would not be subject to the rules of liberalisation. However, they must allow for the acquisition of shares by Community nationals and the delivery of, and access to, their services in a non-discriminatory way. He highlighted the provision of the Treaty which mandated that there be no new restrictions to the Rights of Establishment and the Provision of Telecommunications Services after 1 July 1998. More important, restrictions

which existed as at July 1997 had to be removed and a timeframe developed for the removal of these restrictions.

He explained that the Treaty refers to this mechanism as **The Programme for Removal of Restrictions**. He also explained the procedures and process for developing the Programme for the Removal of Restrictions.

The Meeting was advised that the political process relating to the development of the Programme and agreeing to a timeframe for the removal of restrictions had been completed with the joint work of the Council for Trade and Economic Development (COTED) and the Council for Human and Social Development (COHSOD) and the COTED and the Council for Finance and Planning (COFAP), and the approval of the Programme by the Thirteenth Inter-Sessional Meeting of the Conference of Heads of Government, held during 2-5 February 2002 in Belize.

He concluded by outlining the various Draft Model Bills that had been concluded, namely, the Movement of Factors Bill and the various works in progress to make the CSME a living reality. Those mentioned were the Draft Domestic Regulations to facilitate the provision of professional services within the CSME; the Draft Financial Services Agreement to facilitate the movement of capital within the CSME; and the Manual on CSME Procedures, which is to be used by public sector officials within the CSME.

In the ensuing discussions, the issues raised included the following –

- (i) Given the existence of monopoly suppliers within the sector or the phasing out of these monopolies, how does the Presentation fit into the telecommunications service sector?;
- (ii) Was there a timeframe given to Member States to list the restrictions and for the liberalisation of the telecommunication sector?;
- (iii) Would an up-to-date list of the restrictions existing in the sector be provided along with an analysis of the impact of these restrictions, and the best possible way to remove them?;
- (iv) Most countries have liberalised and the urgent matter that needs to be addressed is that of harmonising the liberalisation efforts; and
- (v) What is the state of play with respect to the removal of the restrictions and agreed deadlines.

The responses to these concerns included –

- (i) Monopolies are legally possible within the CSME;
- (ii) A general timeframe for the liberalisation for all services was agreed upon, but given the peculiar nature of the telecommunications sector, it was agreed to allow for the stakeholders to meet, consider and make recommendations on how best to liberalise the sector. It is however hoped that the liberalisation process will be completed by the end of December 2005 as will be done for all the other services.
- (iii) It is the expectation that the industry would indicate what are the actual restrictions affecting the provision of telecommunications services within the CSME. This information would be compared with that generated by a Consultant and at the end of the day, a total picture should be possible and the appropriate analysis undertaken.
- (iv) It was agreed that harmonisation was now the priority given that the liberalisation of the telecommunications sector of Member States have been individualistic, but the creation of a single space within the CSME would require some level of harmonisation for the CSME to work;
- (v) With respect to the state of play on the removal of restrictions, it should be remembered that the liberalisation of the telecommunications sector currently represents work-in-progress.

THE MEETING:

Noted the Presentation on the **Legal Framework for Telecommunications Services in the CARICOM Single Market and Economy (CSME)**;

Also noted that liberalisation has taken place within the telecommunications services of Member States without reference to the CSME Provisions;

Further noted that most Member States have liberalised or in the process of liberalising the telecommunications sector and that the current urgent need is that of harmonisation;

Noted that there is a need for an up-to-date status on what restrictions currently exist, the modes of supply affected, and an analysis of their effects on the delivery of cost-efficient and competitive telecommunications services and the concomitant of the other sectors of the regional economy, including the ICT-enabled services;

Also noted that it may be too early to agree that the deadline of 31 December 2005 is possible and realistic;

Agreed that before the next Meeting of the Sub-Group on Telecommunications is convened, an up-to-date Status Report should be done on existing restrictions, along with an analysis of their impact and recommendations on how to remove these restrictions by the agreed deadline of 31 December 2005;

Also agreed that, notwithstanding the deadline of 31 December 2005, as set out the Conference of Heads of Government, a final recommendation on a deadline would be determined as the Sub-Group conducts its work.

6. **THE SCOPE OF TELECOMS SERVICES IN THE CSME: A STATISTICAL PERSPECTIVE**

The **Secretariat representative** outlined the various international frameworks for classifying the production of, and trade in, telecommunications services. These include the –

- (i) IMF Balance of Payment Manual Version 5 (BPM 5);
- (ii) IMF Extended Balance of Payments Classification (EBOPS);
- (iii) United Nations (UN) Central Product Classification (UNCPC); and
- (iv) International Standard Classification Rev. 3 (ISIC 3).

With respect to the BPM 5, there is no category called **Telecommunications**, but there is a Sub-Sector called **Communications**. Issues constantly being considered include any services not captured by this classification system.

It was noted that under the GATS, radio and television transmission was excluded from the Communications Sector, but fall under Audio Visual Services.

With respect to the UNCPC, there was a need to harmonise existing classifications. In addition, the Meeting was informed that there was a break out of three categories of telecommunications services, all with the same CPC number 6420. These were –

- (i) Wired Telecommunications Services;
- (ii) Wireless Telecommunications Services; and
- (iii) Satellite Telecommunications Services.

With respect to the Telecommunications ICT nexus, the **Secretariat representative** suggested that telecommunications was a sub-component of ICT, with ICT including other activities such as rental of office machinery and equipment.

In concluding, the **Secretariat representative** stressed that her research suggested that the classification systems differentiated between transmission and the information being transported, in other words, the provision of the services was seen as different to the content of the service itself.

In the ensuing discussions, the matter was raised on what are the coverage of services provided by the Members of the CTU and the Caribbean Association of National Telecommunications Organisations (CANTO). The **CTU and CANTO representatives** indicated that the information could not be provided during the Meeting, but should be made available after.

The **Trinidad and Tobago representative** raised the concern that there were serious implications if the classification systems did not cover hosting of data, such as caller identification and voice mail services. He suggested that if the hosting of data was not included in the classifications systems, this would have serious revenue implications for the CSME given that these services are the value-added services offering the greatest potential for increased economic activity and wealth creation. It was recognised that access to data was different to hosting of the data.

The **Secretariat representative** noted the importance of this intervention and gave an undertaking to discuss the matter with her counterparts at the leading international institutions dealing with classification systems. She also undertook to have a response ready by the time this Report is circulated.

THE MEETING:

Noted the Presentation on the **Scope of Telecommunications in the CSME: A Statistical Perspective**;

Also noted the need to ensure that the classification system(s) used for the CSME must be comprehensive enough to cover the full range of telecommunications services;

Further noted the existing differential treatment between hosting of data and access to data itself;

Noted the current revenue implications that this difference would have as both the Telecommunications and ICT sectors are liberalised within the CSME;

Also noted the undertaking by the CARICOM Secretariat to thoroughly explain the differences in treatment by the various classification systems and to ensure that the classification system(s) of the CSME resolves these differences;

Further noted that the UNCPC is currently the best instrument for harmonisation;

Agreed that a Position Paper on these matters should be prepared by the CARICOM Secretariat for the consideration of the Sub-Group at its next Meeting.

7. **ANALYSIS OF THE PROGRAMME FOR THE REMOVAL OF RESTRICTIONS**

The **Secretariat representative** explained that, within Member States, there are prohibitions for entry into the market and discriminatory access based on national treatment. He suggested that delegates ask themselves what has been achieved since 1997. He also suggested that there was some liberalisation which has taken place in the CSME since 1997.

In the ensuing discussions, the **ITU representative** indicated that since 2002, there was complete liberalisation in the Jamaican market; there was liberalisation in the Organisation of Eastern Caribbean States (OECS) which was spearheaded by ECTEL, and Trinidad and Tobago has indicated that its telecommunications market would be fully liberalised by 1 July 2005. He therefore had two major concerns – that there are different approaches to the liberalisation pursued by the various Member States of CARICOM and that persons were not taking up the opportunities offered by the liberalisation of the telecommunications markets.

The **CTU representative** cautioned that persons must be careful when they say that markets have been completely liberalised. To him, restrictions still remained in the area of number portability and access to the local loop. His major concern was what services of the total list of telecommunications services are covered by the monopoly arrangements.

The **Trinidad and Tobago representative** opined that the important issues to be resolved are what are the expectations of the liberalisation process and what does the Community require from new entrants and existing players in the market.

The **CANTO representative** suggested that the role of the national competition authorities in the process of liberalisation must be clarified. He cited the case of Jamaica in which the Office of Utility Regulations (OUR) refers cases to the Fair Trading Commission (FTC), but the FTC does not have a strong enforcement capability.

The **Jamaica representative**, while acknowledging that there are gaps in the systems, informed the Meeting that these are being addressed. She indicated that the current focus was on reforming the regulatory structure as the current system was apparently not working as was envisaged. In addition, she highlighted that there was an ICT Plan which was currently being considered by a broad-based task force. Also that the operations of the FTC were to be reviewed and that a new Consumer Protection Act administered by a consumer protection agency would soon be in place.

The **Chairman** queried the practicality of all Member States attempting to harmonise the liberalisation processes within the agreed timeframe of no later than 31 December 2005. He suggested that Member States should address the issue of whether or not they should wait on this harmonisation. He stressed that the liberalisation mandate should be separated from the harmonisation mandate, and that liberalisation ought to be the priority. He further stressed that there was an urgent need to determine what activities and services in the telecommunications sector should be identified for immediate open-market competition and what are the residual areas to be addressed. In addition, he was of the view that an area of discomfort was the jurisdiction of the traditional regulation and the emerging Competition Law, and that there was a possible conflict of jurisdiction.

The **ITU representative** argued that most Member States have already developed their policies for the liberalisation of the telecommunications sector and have established the appropriate institutional arrangements. He suggested that the major challenge was not the competition which resulted from the liberalisation process, but the fact that there are two few takers to replace the former monopolies.

With respect to harmonisation, he suggested that the three broad areas to be addressed were policy, legislation and procedures.

The **Cable and Wireless representative** was of the view that Member States seemed not ready for the 31 December 2005 deadline, and queried whether schedules could be revised. She was also of the view that the monopoly suppliers in the telecommunications sector were apparently envisaged to be in operations for the long-haul, and if this is true, Member States should indicate whether there are now changes in this position.

The **Antigua and Barbuda International Institute of Technology (ABIIT) representative** queried whether the needs and concerns of the education sector were being considered in the liberalisation of the telecommunications sector.

In response, the **Trinidad and Tobago representative** informed the Meeting of the Caribbean Knowledge and Learning Network (CKLN) project which, among other things, sought to establish internet facilities in all schools across the Region. He was however concerned that since the project was linked into the University system; it apparently had an inherent weakness in that the outreach to the informal community systems was slow, if not non-existent. This notwithstanding, he was cognisant of the thrust to make the activities related to the project universally accessible by adopting a market commercialisation approach instead of the traditional consumer-based approach. As a result, most communities would be part of a technology-driven experience.

With respect to the issue of harmonisation, he was of the view that there was a need to clarify what the policies are and then move towards harmonising them. In addition, he suggested that some grey areas would always exist, but the CSME, at a minimum, should be in a position to embrace the technology.

The **Telecommunications Services of Trinidad and Tobago (TSTT) representative** requested that the regulators share their experience on enforcing market liberalisation policies in the post-monopoly era. He also requested that the Meeting consider the legal implications and the experiences of the legislature in the post-monopoly era.

The **ITU representative** highlighted the fact that technology is always ahead of legislation and cited the case of Voice-over Internet Protocol (VOIP).

The **Secretariat representative** suggested that in the absence of a comprehensive and robust legislative framework in the post-monopoly era, incumbents would either get stronger or new-comers would not come because there is no legal guarantee on the return of their investment.

THE MEETING:

Noted the presentation on the Analysis of the Programme for the Removal of Restrictions;

Also noted the concerns of the Industry that the Programme for the Removal of Restrictions as approved by the Inter-Sessional Meeting of the Heads of Government in February 2002, may not accurately reflect the true picture on restrictions in the Telecommunications Sector;

Agreed that the Industry should provide the CARICOM Secretariat and Member States Officials with an accurate and updated picture of the existing restrictions in the Sector.

8. CARIBBEAN TELECOMMUNICATIONS UNIT's (CTU) ROLE IN THE LIBERALISED PROCESS OF TELECOMMUNICATIONS

Mr Selby Wilson, Telecommunications Strategist at the CTU indicated that the focus of his presentation would be on the CTU's position and its advocacy drives in the liberalised process.

He informed the Meeting that the CTU was formed to serve and it was mandated to help Member States formulate policies for the Sector. In this regard, two seminars were planned for 2005. The first was held during 5-6 April 2005 and the theme was *Managing a Competitive Environment, Achieving the Liberalisation Goals*. He stressed with respect to development, it was envisaged that the liberalisation of the telecommunications sector would be the vehicle through which the regional economy would be transformed. He further stressed that the seminar hopes to deal with issues such as finding a new economic space in the post-liberalisation period, the lowering of prices, connectivity and improved and enhanced service delivery.

The second seminar is to coincide with the World Telecommunication Day and will take the form of a symposium to be held during 16-18 May 2005. Its theme is *Leveraging ICT for Global Competitive Advantage*. He argued that the Region has to be pro-active if not the incumbents will negatively compete among themselves and at the end of the day share up the spoils. He maintained that whether predicting a pre-ordained future, the Region ought to shape that future. Specifically, the future is in our grasp and if we fail to grasp it we would have failed the Region.

He also maintained that the Region must determine what it wants of the liberalisation process and how it plans to realise the benefits from the liberalisation. In his view most Member States gave the commitment to liberalise the Telecommunications Sector and indeed have been liberalising at a faster rate than was earlier envisaged. With respect to harmonisation, he argued that the liberalisation in Member States was taking place at different levels and differing paces. As a result the appropriate revision of legislation will take longer than three or four years. Also the harmonisation of policies cannot be done within the allotted nine months and will realistically take three or four years. This notwithstanding, there was still scope for significant coordination and some degree of harmonisation was still possible. The principle hurdle to be overcome was the mindset that Member States were independent sovereign states working in isolation of each other.

He suggested that spectrum management was an area which readily led itself to immediate harmonisation. Furthermore, the Region currently observes international norms on harmonisation and he saw no reason why the same could not be achieved at the same level. In his view, harmonisation facilitated -

- (i) economies of scale
- (ii) quality of service
- (iii) greater connectivity; and
- (iv) cost effectiveness in equipment purchases.

In this regard, the example of Canada was cited.

Mr Wilson contended that the Region could pursue certain issues at a corporate level and that he had a greater concern for the Region's people meeting and determining their common good than for the investor to have a common space. As an example, he cited the case of Digicel, which had established operations in all Caribbean space in spite of differences in legislation and regulatory frameworks. He also contended that all the operators in the Sector were standardising their operations and that national identification code for services were being developed. He cautioned that in addition to having the right legislation in place, there was a greater need for logistical arrangements and strategic moves. In his view, the operators' interests must be preserved in the new environment.

With respect to Member Governments, he suggested that they ought to determine what they wanted out of the liberalisation process and develop the appropriate strategies to achieve this goal. Also, governments have to manage the process pro-actively rather than wait until they are imposed by third countries and international donor agencies.

With respect to Civil Society, he cited the recently concluded World Bank/EU Meeting in Barbados which highlighted the role that members of Civil Society were playing in the emerging ICT Sector. For example, the country-style community tourism project of Jamaica, which packaged the tourism product as a total community exercise, thus resulting in all the members of the community having a sense of ownership. It was therefore sustainable, widespread in its impact and having a lasting impression on the visitor who immersed him or herself in a village setting. Another example was cited, that of Dr Ambrose e-medicine activities in St Vincent and the Grenadines in which patients from the surrounding territories were able to have diagnostic tests done and emailed to specialists abroad without having to travel to the territories of the specialists.

In the view of Mr Wilson, these were the activities the Region should encourage and support.

With respect to the operators, Mr Wilson was of the view they have a more in-depth knowledge of the technologies. It was therefore incumbent on them to so redesign their operations so as to deliver cross-effective service to the Region.

In his view, there was no need for a universal fund for deployment of services to the rural areas.

Furthermore, the advancement in technology now makes it possible for services to be provided profitably and more importantly they can be provided to all. Operators will not necessarily make as high a profit as before but for sure they would not make a loss.

In the ensuing discussion, the Chairman highlighted the role of ICT in the liberalised telecommunications market. The **ICT representative** cautioned that the presentation appeared to be arguing that the investor was foreign rather than domestic and that more encouragement has to be given to the development of a cadre of domestic investors for the Region's telecommunications sector.

The **Trinidad and Tobago representative** was of the view that the Region should revisit how it conceptualised the telecommunications space.

The **Jamaica representative** agreed that the Region needs to re-think how it proposes to use the universal fund and informed the Meeting that Jamaica was currently reviewing its policies on this matter. She also informed the Meeting that an e-learning project was on the way and a discussion paper on spectrum management was already in circulation and can be obtained from the following website *sma.gov.jm*. In addition Jamaica has completed a low budget project on ICT readiness and will make a copy available to the CARICOM Secretariat. She indicated that the Cabinet of Jamaica has established a Steering Committee to consider the way forward on ICT.

The Chairman informed the Meeting that the Cabinet of Antigua and Barbuda gets a weekly update on what is happening in the telecommunication sector and that it has an overall policy of raising the consciousness of the public on both telecommunication liberalisation and the use of ICT enabled services to enhance the Governments economic diversification strategy.

The **ABIIT representative** was of the view that no situational audit was done on the level and pace of liberalisation taking place in the Region. He contended that there was a need for an impact assessment to be done on the liberalisation process. He also contended the Region seem not to be clear on where it was and where it wanted to go with respect to the liberalisation of the telecommunication sector, and suggested that by the next meeting a position paper should be prepared on these issues and circulated to participants for their consideration.

THE MEETING:

Noted the presentation by the CTU on its role in the emerging liberalised telecommunications market in the CSME and beyond;

Also noted that a major role of the CTU is to provide policy guidance to the Member States of CARICOM;

Further noted that two strategic seminars would be conducted by the CTU between April and June 2005;

Noted that with respect to the liberalisation exercise currently taking place within CARICOM, the harmonisation of legislation and policies was critical to the creation of a single space and should be given top priority;

Also noted the suggestion that spectrum management was ripe for the harmonisation exercise;

Further noted that there will be a negative impact on the regional economy should the incumbents and new comers be allowed to fight among themselves as a result of the market liberalisation;

Noted the rise of the IT enabled services within the Region;

Also noted that in some Member States, nationals were engaging in these IT enabled services such as the country-style community tourism in Jamaica and e-medicine in St Vincent and the Grenadines;

Further noted the work being done in Jamaica and Antigua and Barbuda in areas of Spectrum Management, e-learning and increasing public awareness of the opportunities associated with the liberalisation of the telecommunications sector;

Agreed that an analysis should be done on the appropriate strategies which the Region should pursue in the harmonisation of legislation;

Also agreed that appropriate incentives should be identified and made available to encourage community nationals to take up the emerging opportunities of the IT enabled services.

9. THE REGIONAL ICT STRATEGY

The **Secretariat representative** presented this Agenda Item in the form of a PowerPoint presentation. A copy of this presentation is set out at **Annex III to this Report**.

After this presentation, participants were divided into three work groups to develop proposals for the liberalisation of telecommunications services in the CSME using the following documentation -

- (i) Extracts of the Revised Treaty which governs the operations of the services regime;
- (ii) The matrix outlining the Programme for Removal of Restrictions with respect to telecommunications services.

The three groups were -

- (i) industry representatives, namely incumbents and new comers;
- (ii) the users; and
- (iii) policy-makers and regulators.

These three groups worked until the end of the day's session.

DAY 2

The Meeting reconvened in plenary session and the co-chair, Mr Eustace Phillips, Telecommunications Officer of Antigua and Barbuda took over. He dealt with few housekeeping matters including how much time was allotted to the Work Groups to complete their work and the administrative arrangements required to have the reports of these groups ready for circulation and discussion when the plenary session was reconvened.

After this introduction, participants indicated that they were still not clear on how to interpret the matrix outlining the Programme for Removal of Restrictions in the telecommunications sector of the CSME. It was originally suggested that this would be done after the work groups would have completed their work, but delegates unanimously requested that it be done immediately.

The **Secretariat representative** informed the Meeting that it was the Secretariat's original intention to have a presentation on the Services Regime of the CSME, which would have explained how to read and interpret the matrix. The **Secretariat representative** also indicated that due to the long programme of the previous day it was best thought to defer this presentation to next Meeting of the Sub-Group, but given the request of the delegates the presentation would now be done.

10. **THE SERVICES REGIME OF THE CSME**

Given the critical importance which the delegates placed on this Agenda Item, the presentation is reported in detail for the benefit of those who did not attend the Meeting as well as a re-enforcement for those who participated. The PowerPoint Presentation and the Removal of Restrictions are attached to this Report.

The **Secretariat representative** indicated that the CSME was the coming together of the 15 markets of the 15 Member States of CARICOM, which was scattered across 250,000 square miles of Caribbean Sea. As a result there were some natural challenges including transportation and communications, which if not adequately addressed would render the CSME useless to the Community nationals.

He explained that due to the rapid advances in information and communication technologies, it was difficult to come up with a universal definition for services which was acceptable to everyone. This, notwithstanding, there were certain basic features common to all services and these included non-storability, intangibility and simultaneous production and consumption. He advised that in his view, Karl Marx's labour theory of value has withstood the test of time and can be used as the basic definition for a service: "It is labour that fruitises work".

He gave a breakdown of the classification of services, namely,

- (i) Unskilled personal services;
- (ii) Skilled personal services;
- (iii) Industrial services;
- (iv) Mass consumer services; and
- (v) High technology business services.

He outlined the principles governing the Services Regime of the CSME, namely -

- (i) The CSME would be the highest form of trade liberalisation;
- (ii) ***Most favoured nation treatment (MFN)*** – all participating countries must treat each other better than they treat third countries;
- (iii) ***National treatment*** – each Member State accords to the nationals of other Member States the same treatment it accords its nationals. More importantly for the CSME it is community nationals rather than the individual nationals of Member States that are operating in the single space with respect to the provision and consumption of services (and in this case telecommunication services);

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- (iv) **Transparency** – all requirements relating to the provision or consumption of services should be known in advance by all community nationals. Nothing is kept secret especially if it constitutes a barrier to provision or consumption of services within the CSME.

He explained that there were 12 broad sub-sectors within the services sector, namely -

- (i) Business services;
- (ii) Communication services;
- (iii) Construction and related Engineering services;
- (iv) Distribution services;
- (v) Educational services;
- (vi) Environmental services;
- (vii) Financial services;
- (viii) Health related and Social services
- (ix) Tourism and Travel related services;
- (x) Recreational, Cultural and Sporting services
- (xi) Transport services;
- (xii) Other services not included elsewhere.

He also outlined the four modes of supplying the service, namely -

- (i) **Cross Border:** this is where the service crosses from one territory to another without either the provider of the service or the consumer of the service moving. A good example of this is the provision of courier services and the use of internet services to transmit records (architectural drawings) from one country to another between a provider (an architect) and a consumer (the client);
- (ii) **Consumption Abroad:** in this case the consumer moves from his or her place of residence to the territory of the service provider. Good examples are the provision of education and health services;
- (iii) **Commercial Presence:** in this case the provider of the service establishes a presence, through a subsidiary, a branch, an agency etc, in order to provide services in the market where the consumers reside; and
- (iv) **Movement of Natural Persons:** in this case the service provider temporarily enters into the territory where the consumers exist in order to provide his or her services. A good example of this is the maintenance technician who moves from one territory to another to provide after sales services to clients.

In providing a brief introduction to the development of the Programme for Removal of Restrictions, the **Secretariat representative** informed the Meeting that the work started in 2000. At that time, officials from all Member States met to consider how to liberalise the Services Sector of the CSME. Given the heterogeneous nature of the Services Sector and its concomitant fragmentation, the absence of detailed statistical data on production of and trade-in-services, and its general under-development in the regional economy, the Officials agreed to contract the services of a team of consultants to undertake the work.

As a result, a team comprising of a legal expert and a trade policy expert was put together to visit all the Member States and carry out consultations with the relevant stakeholders across the services sector including public sector officials, on the area of existing restrictions to the provision of services within the CSME. The **Secretariat representative** acknowledged that some stakeholders continue to argue that they were never consulted, but every effort was made to canvass the views of the relevant stakeholders across the CSME. After approximately two years of work in the field, the consultants submitted a report outlining the specific details on restrictions existing in each Member State of CARICOM. This report went through a series of verifications and the final outcome is what is now referred to as the "Programme for Removal of Restrictions". This programme was approved by the Thirteenth Inter-Sessional Meeting of the Conference of Heads of Government during 2-5 February 2002, and it is the official document which is being used to guide the liberalisation process as Member States move towards the formation of the CSME.

With respect to restrictions, the **Secretariat representative** informed the Meeting that these were defined on the basis of national treatment. As a result, where the nationals from one country are treated differently to the nationals of another country in that country's market, it has been agreed that this measure would be deemed a restriction.

After this introduction, the **Secretariat representative** presented a slide which outlined the approach used to liberalise the telecommunication sector of the CSME. This approach is called the Negative List Approach and is based on the principle assumption that all Community nationals (natural or juridical) have an *a priori* market access to the CSME. In other words, all sectors and services are liberalised unless so specifically excluded by the Member States.

In the presentation, the above was illustrated by -

- (i) a completely white diagram; and
- (ii) a small dark circle within the white diagram.

In relating this to the matrix, the **Secretariat representative** explained that Member States such as Antigua and Barbuda, St Kitts and Nevis, and St Vincent

and the Grenadines fall within the white section of the diagram, in that they were not included in the list as having restrictions on the provision of telecommunications services within the CSME. The **Secretariat representative** further explained that the dark area of the diagram represented the information contained in the Programme for Removal of Restrictions. More importantly, the measures adversely affecting the provision of services in Member States which was symbolised in the dark area of the diagram have to be removed by 31 December 2005. In other words, the dark area of the diagram is completely removed and all that is left is a totally white diagram indicating a fully liberalised CSME.

Turning to Barbados, the first Member State outlined in the programme, the **Secretariat representative** outlined that column entitled *UNCPC Code/Measure* with the number 841 indicated the classification code for the activity under investigation. The column entitled *Services Affected* indicates that a broad sweep of services called Telecommunication Services was affected. The column entitled *Summary Description of Measure* indicated the area of the Barbados legislation which produces a discriminatory effect in favour of the Barbados Service Provider, *vis-à-vis*, his non-Barbadian counterparts. This information was critical and was the focus of negotiations relating to removal of these restrictions.

The columns entitled *Mode 1 through to Mode 4* indicate the mode of supply which is affected by the measure. In the particular case of Barbados, Mode 3 (Commercial Presence) and Mode 4 (Movement of Natural Persons) are affected. The column entitled *Legal Type* indicated that the measure arose out of legislative decision. The column *Timeframe* has the entry N/A (Not Applicable) and read in conjunction with the last column entitled *Comments* indicated that no timeframe has been set for the removal of the particular restrictions because the service was produced under monopoly arrangements. In other words, the information across the first row, the interpretation would be that Barbados has some measures which affected the ability of non-Barbadian CARICOM companies and professional persons to provide telecommunication services in its market. These measures are permanent and not subject to removal because they are provided by a monopoly supplier in Barbados.

Turning to the second row of the matrix, the **Secretariat representative** drew the Meeting's attention to the column entitled *Timeframe*. He explained that with respect to the restrictions which were reported as being in existence in Barbados, that country had given the undertaking to remove these restrictions in the short-term, which all countries agreed would mean no later than 31 December 2003.

Having laid that foundation, he asked the delegates if they were clearer in their understanding of the Programme for Removal of Restrictions and were therefore

now in a better position to interpret the programme. The delegates indicated that they were a lot clearer.

In the ensuing discussion, the delegates suggested that a checklist be prepared indicating what each Member State has to do to meet its 31 December 2005 deadline. They also suggested that based on this checklist the Sub-Group would be in a better position to determine whether or not the deadline the 31 December 2005 is feasible.

The majority of delegates, however, indicated that they were not aware of the exercise involved in developing the Programme for Removal of Restrictions, and that the relevant regulators and policy makers were not involved in the process and that consultations with all the stakeholders should commence as soon as possible to ensure that the liberalisation of the sector produces a win-win situation and avoids unnecessary tension and costs (both social and economic).

The **Cable and Wireless (Barbados) representative** highlighted the fact that many public sector officials were not present and this would have adverse implications on the work of the Sub-Group. She admonished that every effort should be made to increase the representation of officials from other Member States at the next meeting of the Sub-Group, as this would facilitate a more efficient brainstorming session. She also suggested that each Member State should conduct a due diligence exercise to ensure that the Programme for the Removal of Restrictions as it relates to the liberalisation of the telecommunication sector be up-to-date and as accurate as possible.

In response, the **Secretariat representative** enquired whether the industry operatives would be willing to finance the participation of the public sector officials and the convening of future meetings of the Sub-Group. The **Industry representative** indicated that they were willing and so disposed in facilitating the future work of the Sub-Group. The CARICOM Secretariat representative would discuss specific proposals with the industry.

Some delegates suggested that the guidelines of the Eastern Caribbean Telecommunications Authority (ECTEL) be followed. They also suggested that a road map be developed and followed for the liberalisation of the telecommunications sector of the CSME. In this regard, the **Trinidad and Tobago representative** suggested that the Sub-Group should establish performance indicators and milestones, which must be achieved, as this would make its work more effectual.

The **Cable and Wireless (Antigua and Barbuda) representative** suggested that the Sub-Group takes into consideration at its next Meeting, Member States/WTO commitment in telecommunication services.

THE MEETING:

Noted the presentation by the CARICOM Secretariat on the Services Regime of the CSME;

Also noted the background and historical process leading up to the development of the Programme for Removal of Restrictions in the telecommunication sector;

Further noted that there were sufficient consultations with the Secretariat's stakeholders on the development of the Programme for the Removal of Restrictions in the sector;

Noted that a checklist be prepared indicating what each Member State has to do to meet the 31 December 2005 deadline;

Also noted that based on this checklist the Sub-Group would be in a better position to determine whether or not the deadline of 31 December 2005 is feasible;

Further noted that a road map be developed and followed for the liberalisation of the telecommunications sector of the CSME;

Noted that the Sub-Group should establish performance indicators and milestones, which must be achieved, as this would make its work more effectual;

Also noted that the industry has indicated that it would facilitate the participation of public sector officials and the future work of the Sub-Group;

Agreed that the analysis which the relevant community institutions would prepare for the next meeting would include the checklist, the road map and Member States/WTO commitments;

Also agreed that appropriate incentives should be identified and made available to encourage community nationals to take up the emerging opportunities of the IT enabled services;

11. DEVELOPMENT AND CONSIDERATION OF PROPOSALS

The Work Group Sessions recommenced and the report of Work Group III is set out at **Annex IV to this Report**. The reports of Work Groups I and II will be circulated under separate cover.

With respect to the discussions emanating from the Report of the Group consisting of incumbents and new entrants (Group 1), the issues raised were -

- (i) What are the existing policies relating to the role of the regulators and the role of government?
- (ii) there is a need for information on the revenue which Member Governments are collecting for monopolies. This would help the new entrants to gauge what they are up against;
- (iii) what can be done to facilitate the provision of tertiary education within the CSME. The principle goal should be to increase the usage of telecommunication facilities to facilitate persons staying at home. In this regard the group indicated that it considered this particular concern but was constrained by lack of information which primarily resides offshore;
- (iv) there is a need to obtain the commitment and suggestions from the private sector on how the objectives of the CSME would be achieved;
- (v) there is a strong likelihood that the incumbent's operations will retain a monopolistic character. As a result these must be subject to regulations;
- (vi) there is a need to unbundled the local group and regulate the bottleneck facilities. This should help small investors and Internet Service Providers (ISPs);
- (vii) there must be access to bottleneck facilities while ensuring that the price is reasonable;
- (viii) in Jamaica, the International Telecommunication Union (ITU) and the University of the West Indies (UWI) are currently collaborating to provide a distance education programme leading to a MSc Degree in Telecommunications. The major challenge is to get persons residing in non-campus territories to meet the entry requirements;
- (ix) there is a need for greater usage of video conferencing facilities;
- (x) the Antigua and Barbuda International Institute of Technology can offer equivalent degrees to those provided by the UWI Mona Campus, Jamaica. Each year, hundreds of Antiguan qualify to enter the University of the West Indies but cannot afford to go; and

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- (xi) there is a need for information used in the provision of distance education programmes to be stored on a common server and made available to each local territory.

With respect to the discussions emanating from the Report of the Group consisting of users of the service (Group 2), the issues raised were -

- (i) there is a need for Customs and Excise controls with respect to the importation of equipment used by the IT enabled sectors.
- (ii) as individual officers continue to operate on their own instead of being guided by the official policies of Member Governments;
- (iii) individual community nationals, natural and juridical, should be able to approach the Caribbean Court of Justice (CCJ) directly; and
- (iv) there is a need for the development of regulations governing access to common networks and the universal fund. In this regard, the issue of content hosting versus the transmission of information should be given top priority. In addition, the regulations should clearly resolve who should own the network and who should have access to it.

With respect to the discussions emanating from the Report of the Group consisting of the regulators and policy makers (Group 3) the issues raised were -

- (i) at the lowered end of the Layered Approach, ownership should be multi-party rather than singular;
- (ii) with respect to the liberalisation of the networks layer, the aim is to avoid creating new service providers without expanding on a network. In other words there should be a common network. The example of the development of the USA railway network system was cited. Specifically the network is common but all are free to deliver the service over the network. Once an investment is made it must be protected, catered for and maintained. In the case of the Region's telecommunications system, the investment is already there which provides a common network system and this reality must be taken on board;
- (iii) there is a distinction between reinvestment and regeneration;
- (iv) the strategy on networking must be allowed to vary with the circumstances faces by Member States;

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- (v) the Sub-Group should consider the feasibility of establishing a specific regional standards body for telecommunications or see how the establishment of quality standards can be generated through CROSQ. In this regard, it was noted that ITU already has a standard of quality on service for the telecommunication sector. It was also noted that previously there was a time-lag between the demand for the standard and the development of the standard, but this problem has been fixed. It was further noted that many standards exist and it is simply a matter of ascertaining where get information on these standards;
 - (vi) there is a need for the establishment of professional bodies to generate and enforce standards for the professional service providers, to deal with qualifications and accreditation if the CSME is going to operate efficiently. In this regard, it was noted that the European Union had promulgated a recognition of qualification mechanism for its Single Market and Economy during the month of February 2005;
 - (vi) it would have been ideal if the existing constraints operating in the sector were recognised before the Programmes for the Removal of Restrictions in telecommunications were developed. This notwithstanding, there is an urgent need to ensure that the liberalisation of the sector keeps on track, that information is shared more frequently and more widely among the stakeholders and a strategic plan on where the Region is going to be in the next five years, developed. For example, such a plan should speak to the expected level of penetration of internet usage. Delegates were of the view that Member States should follow the examples of India and Korea in the areas of outsourcing and providing specialised training to meet the demands of the IT enabled sectors;
 - (viii) prior to the liberalisation process, Member States lagged behind because of lack of access to telephone services. The current constraint is lack of access to broadband services;
 - (ix) an objective of the CSME ought to be that of wealth creation; and
 - (x) there is a need to circulate to members of the Sub-Group, information on the local CSME focal points and contacts.

12. ANY OTHER BUSINESS

The Secretary-General of Caribbean Association of National Telecommunications Organisations (CANTO) informed the Meeting that it will be having a workshop during the month of June in St Kitts and Nevis to deal with the general theme of competitiveness in the CSME.

THE MEETING:

Noted the information and expressed the desire to participate.

Close of Meeting

There being no further business the Meeting ended with an exchange of courtesies.

