

THE OECS ECONOMIC UNION AND SOME CONSTITUTIONAL IMPLICATIONS

by

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[FORMAL GREETINGS!]

INTRODUCTION

Our conversation this evening on the proposed Economic Union of the member-states of the Organisation of Eastern Caribbean States (OECS) and some of its constitutional implications, occurs not in an abstract or sanitised condition of living and production. On the contrary, the circumstances of real life and living are profoundly difficult and immensely challenging. Never in the last eighty years since the “Great Depression” has there been, as now, a period of extraordinary financial turmoil and economic uncertainty worldwide. Expressions such as “*financial meltdown*”, “*economic tsunami*”, “*deep recession*”, and “*one-in-a-life-time economic depression*” have been uttered by responsible leaders in business, academia, and government in the capitals of the world's major economies to describe the current state of the international

economy. Even more troubling is the lack of an informed consensus as to the depth, breath, and length of this economic recession.

In the United States of America, Europe, and Japan a monumental economic crisis has emerged in which the principals are innocent of the extent of the condition and have no settled or clear ideas as to the way forward. In the U.S.A. alone over two million persons lost their jobs in 2008, swelling the ranks of the unemployed to a number in excess of 12 million persons. In January and February of 2009, an additional 1.3 million persons have joined the jobless queue. The faces of men and women are strained and anxious in New York, London, Paris, Tokyo, and elsewhere. Workers in the developed countries and emerging economies are more concerned about holding their jobs than in seeking pay increases. Investors are focussed more on keeping their investments intact, not creaming off abnormal profits.

Small, developing, open economies like those in the member-countries of the OECS are particularly vulnerable from the ill winds which blow from this vortex of turmoil and uncertainty

internationally. Beneficial trade, tourism, investment, and remittances have become casualties to one degree or another. Regionally, there was a marked economic slow-down in 2008 and the economic prospects for 2009 are not rosy. The troubles of the CL Financial Group and CLICO, the fall-out of the collapse of the Stanford business empire, and job losses in major tourism and other business enterprises across our region, attest to the enormity of the tasks at hand. Clearly, it is not going to be a “walk in the park” this year or in the immediate future.

Basically, there are three possible responses to all this and we notice them being played out: First, ignore the crisis, maintain a business-as-usual attitude and hope, forlornly, for the best. Secondly, embrace a debilitating learned helplessness, appear busy-busy, and essentially do nothing. This is but a variant of the first response. Thirdly, be creative, think afresh, be positive, turn setbacks into advances, try innovative measures, go against the established grain, and coordinate ever more the elaboration and implementation of vital public policies regionally through CARICOM or sub-regionally

through the OECS and the Eastern Caribbean Central Bank (ECCB).

I am a non-partisan activist in the cause of this third option.

I have averred elsewhere that a crisis is a terrible thing to waste. Thus, an enduring, lasting legacy of these most daunting economic times must be a profound deepening of the regional integration movement especially within the OECS. The realisation of the quest for a more perfect union of the member-countries of the OECS is urgent and compelling. This is, more than ever, most vital if we are to emerge from the depths into which our region has been plunged, a condition occasioned by circumstances largely not of our own making, but which have come upon us mainly from outside. Still, "outside" will not rescue us; "outside" may help if and when it rebounds, but we must do the lifting ourselves. No one but you and I, singly and collectively, can save ourselves. That is our duty; it is our destiny.

I take inspiration for all this from a recent re-reading of Derek Walcott's poetic masterpiece "The Schooner Flight" from his The Star-Apple Kingdom published in 1979. Listen to his apt observations,

which I quote at length, of the journey of the Schooner "Flight" which is seeking to manoeuvre "Out of the Depths":

"Next day, dark sea. A arse-aching dawn.

'Damn wind shift sudden as a woman mind.'

'...Be Jesus, I never see sea get so rough

So fast! That wind come from God back-pocket!'

"I have not loved those that I loved enough.

Worse than the mule kick of Kick-'Em Jenny

Channel, rain start to pelt the "Flight" between

mountains of water. If I was frighten?

The tent poles of waterspouts bracing the sky

start wobbling, clouds unstitch at the seams

and sky water drench us, and I hear myself cry,

'I'm the drowned sailor in her 'Book of Dreams'.'

I remembered those ghost ships, I saw me corkscrewing

to the sea-bed of sea worms, fathom pass fathom, my

jaw clench like a fist, and only one thing

hold me, trembling, how my family safe home.

Then a strength like it seize me and the strength said:
'I from backward people who still fear God.'
Let Him, in His might, heave Leviathan upward
by the winch of His will, the beast pouring lace
from his sea-bottom bed; and that was the faith
that had fade from a child in the Methodist Chapel
in Chisel Street, Castries, when the whale-bell
sang service and, in hard pews ribbed like the whale,
proud with despair, we sang how our race
survive the sea's maw, our history, our peril
and now I was ready for whatever death will.
But if that storm had strength, was in Cap'n face,
beard beading with spray, tears salting the eyes,
crucify to his post, that nigger hold fast
to that wheel, man, like the cross held Jesus,
and the wounds of his eyes like they crying for us,
and I feeding him white rum, while every crest
with Leviathan-lash make the 'Flight' quail
like two criminal. Whole night, with no rest,
till red-eyed like dawn, we watch our turmoil

subsiding, subside, and there was no more storm.

And the noon sea get calm as Thy Kingdom Come.”

Walcott's Schooner, "The Flight", faced the raging, tempestuous seas and the harsh vagaries of nature. At first the crew is uncertain of their fate and glimpsed the worst. But the love of family safe at home, and a faded faith in God now renewed at the time of crisis, provided an inner strength which sustained them. At the wheel was a highly-skilled captain who was selfless and determined to steer the schooner out of the depths of a possible doom. His crew worked hard and smart; they stayed up all-night toiling in a loving and committed communion with their captain. In time, the storms subsided; the dreaded night of tears gave way to a noon-day sea which became calm in a joyful redemption of "Thy Kingdom Come". So, there is an inspirational and insightful compass for us, as we sail the rough economic waters.

Thus our collective journey towards a deeper, more perfect union has taken us through much pain and joy, defeats and triumphs, setbacks and advances. Circumstances have made it now more

propitious than ever to enlarge our possibilities, reduce our limitations, consolidate our strengths, and convert our negatives into enduring positives in this mighty quest for an economic union of the OECS member-countries. This is a great cause; and great causes have never been won by doubtful men and women. We ought never to be doubtful about the bounty of history's bequests to us nor about the solemn realization that of all time only the future is ours to desecrate.

History, culture, demography, and geographic propinquity have pre-disposed our sub-region to a closer union. Contemporary economics, small size, trade liberalisation advanced telecommunications, modern globalisation, and the turmoils of "casino capitalism", have induced us to strengthen ever more perfectly the ties that bind. Island chauvinism, a potential overreach by regional bureaucrats, and the petty politics of village states are the debilitating interlopers which threaten to undermine the efficacy of the proposed economic union enterprise and its necessary and consequentially altered political superstructure.

FUNCTIONAL COOPERATION TO ECONOMIC UNION

The case for a closer union of the member-countries of the OECS has always been unanswerably strong. The founding-fathers of the Treaty of Basseterre, which established the OECS in 1981, envisaged functional cooperation, and more, in eighteen specific areas, within the political economy and society. Indeed, through the OECS and other companion entities a veritable supranational institutional architecture has been built around a solid core including: the Eastern Caribbean Supreme Court system; the Eastern Caribbean Central Bank; the Eastern Caribbean Telecommunications Authority; the Eastern Caribbean Civil Aviation Authority; and the OECS itself which oversees and implements sub-regional cooperation in health, education, the joint procurement of pharmaceuticals, sports, agriculture, tourism, external trade, the environment, maritime matters, and joint diplomatic representation in Ottawa, Brussels and Geneva.

Indeed, of the concentric circles of regional integration in the Caribbean, the OECS is the most tightly drawn; and there is

undoubtedly a greater collegiality in decision-making and implementation in it than in the wider Caribbean Community (CARICOM). But there is inevitably much overlap in functional and economic cooperation between CARICOM and the OECS. Yet at the same time there is a marked difference, for the better, in the OECS in many joint cooperative areas, for example, in the judicial system, money, and banking.

Obviously, the establishment of the CARICOM Single Market and its targeted evolution to a Single Economy has implications for the criss-crossing development of an OECS Economic Union. In turn, an OECS Economic Union will necessarily demand that an expressed special place be carved out for it within the Revised Treaty of Chaguaramas of CARICOM. In a sense, the quest for an OECS Economic Union is a recognition by the OECS member-countries that the "special and differential" position elaborated for them within the Revised Treaty of Chaguaramas is inadequate and that the promise of a CARICOM-wide Single Economy is unlikely to be fulfilled either at all or in a manner sufficiently advantageous to them. Thus for example, we are unlikely to see in the foreseeable

future the realisation of a common monetary policy or a common currency in CARICOM as there exists in the OECS member-Countries. Similarly, it is most doubtful that we would see in CARICOM an integrated judiciary as in the OECS or an enhanced institutionalised “supranationality” in political decision-making which is required to transform a ramshackle political-administrative apparatus in CARICOM into a purposive, matching vehicle correspondingly, for the Single Economy venture.

Objectively, and immediately, the OECS member-countries ought additionally to elaborate further in theory and practice, very special political-economic and social relationships with Trinidad and Tobago, Guyana, and Barbados. It is self-evident, for example, that apart from the monetary union of the OECS-member-countries, their economies are more closely integrated with that of Trinidad and Tobago than with each other. Moreover, Grenada and St. Vincent and the Grenadines have especial family ties with Trinidad and Tobago. Barbados is a major hub for the OECS member-countries in several areas of activity; and they share a joint Regional Security

System. Guyana represents the future for land, food, and water for the sub-region.

These reasons, and more, correctly prompt some leaders in the OECS, particularly from the Windward Islands, from time to time to propose closer political ties formally with Trinidad and Tobago especially, as recently with the OECS-Trinidad and Tobago Economic Union Initiative, and to a lesser extent with Barbados and Guyana. All these ideas or proposals possess validity in themselves but none undermines the on-going push towards a closer union of OECS member-countries. This is where we are at practically, now!

DRAFT OECS UNION TREATY

The Heads of Government of the independent member-countries of the OECS and Montserrat have decided on behalf of their respective populations to propose for their consideration the development of the OECS into an Economic Union. Anguilla and the British Virgin Islands have expressed their willingness to remain associated with the OECS in its functional cooperativeness but they

stand askance from the proposal for an Economic Union. This dual level of engagement or two-tiered OECS is permitted in the Draft Economic Union Treaty which encompasses the Functional and Governance, arrangements separately from the Protocol of the Eastern Caribbean Economic Union. This Protocol facilitates the construction of a modern, many-sided, competitive post-colonial economy which is at once national, regional, and global.

The Draft of the proposed Treaty for the OECS to replace the existing Treaty of Basseterre has as one of its major purposes the establishment of an Economic Union as a single economic and financial space [Article 4.1 (e)]. It further proposes that the OECS be “an institutional forum to discuss and facilitate constitutional, political and economic changes which would be necessary for the successful participating of member-states in the regional and global economies. “[Article 4.1 (f)]. The Draft Treaty envisages 21 areas of joint policies and actions.

An Economic Union necessarily demands alterations in the governance structures in the OECS. Accordingly, Article 5 of the

Draft Treaty provides for a general undertaking by member-countries to delegate legislative competence to the OECS in certain specified areas. Article 14.1 of the Draft Treaty details the five areas of legislative competence for the OECS, namely:

- (i) The Common Market including customs union;
- (ii) Monetary policy, the competence in this category to be exercised on the recommendation of the Monetary Council;
- (iii) Trade policy;
- (iv) Maritime jurisdiction and maritime boundaries;
- (v) Civil aviation, the competence in this category to be exercised on the recommendation of the Civil Aviation Regulatory Board of the Eastern Caribbean Civil Aviation Authority.

Article 14.2 of the Draft Treaty provides the OECS with an overriding legislative competence by delegation in relation to: (a) Common commercial policy; (b) environmental policy; and (c) immigration policy.

The suggested governance arrangements in the Draft Treaty centre on five institutions:

- (a) The Authority of Heads of Government of the member-countries of the OECS;
- (b) The Council of Ministers;
- (c) The OECS Assembly;
- (d) The Economic Affairs Council; and
- (e) The OECS Commission.

Together these institutions are designed to assist with relevant legislative work and effective administration or implementation. The Authority is the law-making and executive body but a vital legislative filter would be the OECS Assembly. And a suggested innovation is the OECS Commission which incorporates the OECS Secretariat as its administrative arm.

SOME IMMEDIATE INSTITUTIONAL STEPS

In addition to the institutional arrangements which have been, or are being, put in place by the OECS Secretariat and the member-countries of the OECS to advance the process towards the attainment of an OECS Economic Union by the end of 2009, I suggest that the following institutional steps be taken urgently:-

1. The establishment of a well-staffed Regional Integration and Diaspora Unit in each member-state headed by someone of Ambassadorial rank.

This Unit's central mandate is to initiate, coordinate, and assist in the implementation of public policies touching and concerning the regional integration movement, especially the OECS. In St. Vincent and the Grenadines there is already such a Unit and it exists in the Office of the Prime Minister.

2. The setting up of a Cabinet Sub-Committee on Regional Integration to be chaired by the Prime Minister. This inter-ministerial Cabinet Sub-Committee ought to have as its main purpose the practical political and policy superintendence, at the Executive Level, of the regional integration movement.
3. The establishment of a permanent, all-party, non-partisan Select Committee of Parliament, chaired by the Prime Minister, to oversee and advance, legislatively, the condition of the regional integration movement. The leaderships of civil society organisations and other

distinguished individuals ought to be invited to the deliberations of this Select Committee.

4. The institutionalisation of reportage to Parliament, at least on a quarterly basis, by the Prime Minister, of the status and condition of the regional integration movement, especially that of the thrust towards an OECS Economic Union. An urgent parliamentary debate in each member-country of the OECS ought to commence this institutionalised reportage process. This debate ought to be broadcast live in every other OECS member-state.

SOME CONSTITUTIONAL IMPLICATIONS OF AN OECS ECONOMIC UNION

The Draft Treaty for the OECS, and its attendant Protocol of Eastern Caribbean Economic Union, does not undermine the constitutional integrity or the very Constitution of any of the member-states of the OECS. Indeed, the enhanced areas of legislative competence

entrusted to the OECS under the Draft Treaty are by way of delegation which would be conferred in two expressed ways: First, by the enactment of the Treaty into the domestic law of each member-country of the OECS; and secondly, by the passage of a specific and common Act of Parliament in each member-country to provide legal and constitutional clothing for decisions taken by the OECS Authority, or any administrative structure thereunder, on the matters covered in the Treaty.

It is to be noted that the OECS Assembly is a legislative filter of a consultative nature which does not subvert the parliamentary authority of any member-state. Similarly, the OECS Authority represents a pooling of sovereignties, not a derogation of it. Indeed, the pooling of sovereignties, in practical terms, amounts to an enlargement of political and economic space in which to exercise the sovereignty of the individual nation-state.

This approach to a deepening of regional integration by way of Treaty or Inter-Government Agreement embodied in domestic statutory law is tried and test in our region and sub-region. The

Revised Treaty of Chaguaramas, upon which the Caribbean Community (CARICOM) is based, was signed by Heads of State/Government, ratified by Cabinets, and then passed into domestic law by Parliament. So, too, the Agreement establishing the Eastern Caribbean Currency Union (ECCU) and the Treaty of Basseterre upon which the OECS is grounded.

To be sure, the distinguished draftpersons of the proposed Treaty, Professor Ralph Carnegie and Mr. Reggie Amour Q.C., have pushed towards the limits of the existing individual constitutions of the member-states of the OECS in quest of the deepest and most practicable governance arrangements in the Union in accordance with the instructions unanimously delivered by the governments of the member-states. But they have not reached those limits.

CONCLUSION

The fundamental issue at stake therefore is political, not constitutional: Are the people of the OECS sub-region prepared to embrace a necessary and desirable supranationality on their march

to a more perfect union? Are the people ready to pool their island sovereignties further for a more beneficial Union in the interest of their development and humanisation?

I believe, unequivocally, that they are prepared and ready to go forth to a more perfect Union in the OECS, and indeed in the wider CARICOM. But a committed, clear-sighted, and passionate leadership is required like the Captain of Derek Walcott's Schooner, named "Flight", who led his crew and vessel out of the stormy seas and tempestuous winds to a sea of calm. It is a leadership which not only inspires but which draws out of the people being led that which is good and noble in them, sometimes to draw out goodness and nobility which the people do not as yet know that they possess. Remember, though, that leaders make history only to the extent that the circumstances permit. So, the people must take ownership of this process in communion with their leaders.

Together we are at a propitious historical juncture. It is an occasion to chant with real meaning and hopefulness Psalm 133:

“Behold how good and how pleasant it is for brethren to dwell together in unity!

“Like the precious oil upon the head, that ran down upon the beard, upon Aaron’s beard, that ran down to the hem of his garments;

“As the dew of Hermon that descendeth on the mountains of Zion, for there hath Jehovah commanded the blessing, life for evermore.”

Unity of the peoples of the OECS member-countries is the metaphoric “precious oil” upon our heads and the energizing “dew” that descends upon our region’s landscape, its mountains, valleys, plains, and beaches, and yes, upon our seascape, too. This “unity” is an abundant blessing which our fathers and mothers have bequeathed to us and which destiny and our condition dictate that we must embrace, always.

Thank you!