

“Recent Developments in the Eastern Caribbean Region”
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Presented
at
Caribbean Conference by the Offshore Institute
British Colonial Hilton Hotel
Nassau, Bahamas
5 - 7th June, 2000

Over the past two decades, driven to a large extent by active government support, many of the Eastern Caribbean island nation states have embarked on the development of their international financial services sector. According to a World Bank Study, the main factors influencing the development of this industry in the region were favorable fiscal incentives, better macro-economic environment, improved technology, propitious time zone locations and excellent telecommunications links. This industry is described as “an area of economic activity that is helping eastern Caribbean island nations stand on their own feet.”²

I. REASON FOR DEVELOPMENT OF THE INT’L FIN SVCS SECTOR.

The economies of the Eastern Caribbean are particularly vulnerable to threats of natural disaster such as hurricanes and volcanic eruptions and other economic shocks that can cause serious disruptions to the important tourism industry, agricultural crops and the countries’ infra-structure. In recent years, as sugar and banana have ceased to be viable economic sources of income in this region, a condition exacerbated by the removal of preferential treatments and concessionary aid flows, that these countries have been compelled to diversify into other industries, particularly service industries.

In light of the need for diversification, the respective governments of our Caribbean nations had the foresight to identify the international financial services sector as a sector that offers novel opportunities for economic diversification and growth of small island states. It is a sector that is seen as compatible with the tourism industry and one which can contribute significantly to the economic development of small island states. It generates foreign exchange earnings and makes significant contributions to government revenues and to the overall gross domestic production. In addition, the sector generates employment and has favorable spin-off effects to other sectors of the economy, such as the high technology areas, professional services and construction. In recognition of this opportunity, many of the island nation states of the Caribbean have expended considerable resources to develop expertise in this sector so as to attract legitimate business activity to their shores and reap the economic benefits to be derived.

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² Tony Best, “*The Business Authority*”, Barbados, 7 June 1999.

Consequently, these island states have now come to depend to a very large extent, upon international financial service activities for their livelihood.

11. IMPORTANCE OF SECTOR TO THE ECONOMIES OF THE CARIBBEAN

International financial services now account for an increasingly substantial proportion of the economies of these island states. Unquestionably, the growth of the financial services sector has resulted in a boom for some of these economies. This is seen in the contributions from direct revenues from registration and other government fees.

Economic Contribution of the Offshore Sector in the Eastern Caribbean to Government Current Revenue³

<i>Country</i>	<i>Percentage Contribution in 1998</i>	<i>Percent Contribution of Non-Tax Revenue</i>
Anguilla	2%	14%
Antigua & Barbuda	2.0%	10%
Dominica	5.3%	23%
Grenada	3%	25%
Montserrat	*	*
Nevis	10%	30%
St. Kitts	1.8%	10%
St. Lucia	#	#
St. Vincent & The Grenadines	1%	7%

Source: Various sources e.g. Eastern Caribbean Central Bank, personal interviews, etc.

Not yet operational in 1998.

* Information not available.

Additionally, we see substantial wealth produced as a result of the operation of the international financial centres in these small island states. For example, we observe the contribution from local spending, the rental of office space and the rental of residential accommodations that further bolster the economies. Furthermore, the construction sector has been busy in terms of infrastructure and private development projects and the increased employment has resulted in the citizens of these islands enjoying well-paid, high-end employment in the financial services sector. If the total contribution of the international financial services sector to these small island states were to be quantified, it would be quite astonishing. In several nations, the contribution is between 30 – 40 % of the economy of the island and in a few nations, the contribution is even higher.

³ The contribution to revenue noted here are from government registration fees only and does not include direct and indirect taxes, duties, licensing fees, registered agent fees or other indirect contribution to the economy such as professional business fees for providing banking, managerial, accounting and legal services. Neither does it include wages and salaries nor revenue received for supplying goods or services to offshore companies and other revenue.

III. UNIQUE CHARACTERISTICS OF THE EASTERN CARIBBEAN STATES

The island states of the Eastern Caribbean are unique in many ways. Of notable mention are the following:

- The Eastern Caribbean states are composed of only 8 island states, however, there are 9 offshore jurisdictions. The reason for this is that the Federation of St. Kitts and Nevis operate two separate governments and hence two separate jurisdictions with each having its own offshore legislation; and
- Six of the eight island states are fully politically independent island states while two (Anguilla and Montserrat) are still British Overseas Territories.
- In January, 2000, the West Indies Stock Exchange was launched. This new venture will serve to enhance the economy and present a variety of favorable opportunities for all of the Eastern Caribbean island nations.

IV. RECENT DEVELOPMENTS IN THE EASTERN CARIBBEAN REGION

Anguilla

Anguilla's Commercial Online Registration Network (ACORN) system was created to allow Anguilla to compete with the larger jurisdictions and was officially launched in June 1999. The system is a state of the art electronic registry system that allows company registration via the internet 24 hours a day, 365 days of the year. The ACORN system also enables all other corporate registration activities to be undertaken online once they are required or permitted under the appropriate company legislation. The system is available to all licensed practitioners within Anguilla and to their overseas agents. The program was funded by the UK Department of International Development.

Initially, Anguilla found that the offshore industry was slow to embrace the electronic system, however, in recognition of the prevalence of the use of e-commerce, there has been significant increased activity. Since the launch of the ACORN system, Anguilla has seen the filing of numerous statutory documents by their local registered agents and their overseas agents who span the globe.

On March 3, 2000, a new Parliament was elected and it is expected that the host of pending legislation will soon be enacted. Some of these legislation are as follows:

- Proceeds of Criminal Conduct Bill and supporting regulations.
- Amending of IBC Ordinance to permit optional registration of charges.
- Amending of Limited Partnership Ordinance to permit general partner to be non-Anguillan or a non-Anguillan entity.
- Revision for Offshore Banking and Trust Ordinance to bring it into line with provisions pertaining to trust companies and other provisions.
- Financial Services Act to create independent Regulatory Body.
- Review of all licensing legislation and practices as part of the review of financial regulation announced by the U.K. government.

Antigua & Barbuda

In 1999, the government announced an overhaul of its banking supervision board and pledged to upgrade its money laundering legislation in the face of renewed international criticism. The International Financial Sector Authority (IFSA) has now been renamed to International Financial Services Regulatory Authority (IFSRA) and is presently being restructured under Foreign Affairs.

On 9th September, 1999, the Money Laundering (Prevention) (Amendment) Act 1999 was brought into force to address objections by the U.K. and the U.S. to 1998 Amendments which they claimed had strengthened bank secrecy and restricted international co-operation. One of the main changes relate to increased fees for money laundering offences; requirements to report transportation of currency in excess of US\$10,000. In addition, there was a recent amendment to the IBC legislation and a separate body will be established for Public Relations.

For 2000, plans are in place to strictly enforce the new regulations and monitor the industry to ensure that only persons and businesses with integrity are allowed to conduct business in Antigua.

Consideration is being given to the possibility of changing from a no tax to a 2 % low tax rate.

Dominica

Dominica offshore banking legislation was passed in 1996. The sector is administered by the International Business Unit (IBU).

During 1999, Dominica:

- launched its electronic registry system for IBCs so that companies can now register via modem,
- focused on consolidating the position of the island as an offshore centre,
- evaluated its existing legislation,
- In December, 1999, amended its Offshore Banking Act that placed supervision of Offshore Banks in the hands of the Eastern Caribbean Central Bank.
- Has placed a hold on its economic citizenship program,
- introduced a quarterly magazine on the offshore industry.

Dominica now has 6 offshore banks and several Trust Companies.

Dominica is now consolidating their position and are considering the following:

- Internet gaming,
- Mutual funds legislation,

- Enacting a Free Zone Act,
- broadening its due diligence evaluations.

Grenada

The offshore financial services sector was launched by Grenada in 1996 with the enactment of several Acts, namely:- the Offshore Banking, the Companies, International Insurance and International Trusts Acts. In that year, the first offshore bank in the jurisdiction was licensed. By the end of 1997, the number of offshore banks had increased to 10 and by the end of 1998 and 1999, the number had grown to 24 and 30 respectively. Today, Grenada has 43 licensed offshore banks, but only 20 that are operational and 4 Trust companies.

On 29th October, 1999, the Grenada International Financial Service Authority was introduced in the house. This places international financial services in the hands of a Crown Corporation that is no longer housed under the Ministry of Finance but is in the hands of a semi-autonomous body. This initiative allows the financial sector in Grenada to operate on a more efficient and effective basis.

Plans are in place to:

- establish on-line-registration system.
- introduce a new money laundering bill. The contents of the bill are consistent with the provisions of the Caribbean Financial Action Task Force (CFATF);
- draft mutual fund legislation;
- enact ship registration legislation; and
- refine its economic citizenship program.

Montserrat

A package of offshore legislation had their first reading in 1997 but were subsequently suspended due to the Soufriere Hills volcano eruption that occurred in 1996.

Despite the setback, the package of legislation was passed at the end of 1998 and comprises the following:

- Trusts Act;
- Exempt Mutual Funds Act;
- Partnership Act;
- Limited Liability Companies Act;
- Company Management Act;
- Proceeds of Crime Act; and
- Fraudulent Dispositions Act.

The residual effects of the volcano has had a profound negative effect on the economic activity of the island. To this day, activity in the offshore financial service sector remains

slow as authorities continue their rebuilding efforts on the island. Offshore banks declined by two to 15 and only a few IBCs were incorporated in the past year.

The package of legislation is due to come into force when accompanying regulations have been finalized. Also in the pipeline is a new insurance law and legislation for limited partnerships.

Nevis

Nevis was one of the first jurisdictions in the Eastern Caribbean to realize the benefits of economic diversification via international financial services. Accordingly, in 1984, one year after the island of Nevis along with its sister island of St. Kitts achieved full political independence from Britain, the island Government launched the International Financial Services sector with the enactment of the Nevis Business Corporation Ordinance, 1984.

Today, Nevis has an attractive legislative regime in place that is second to none and 50 experienced service providers with expertise in law, banking and finance to meet the needs of the astute international investor. Nevis is now recognized in the international arena as a predominant and reputable IBC, Trust and Limited Liability Company formation jurisdiction in the world.

Over the years, Nevis has been well served by its philosophy of doing it right rather than doing it fast. Presently, revenue from government registration fees in the sector contributes >11% of the current revenue of the island and has engendered a veritable transformation of the island in only a few years.

In 1998, in recognition of the maturity of the international financial services sector, the Financial Services Department within the Ministry of Finance was established.

In 1999, in reaffirmation of its commitment to facilitating legitimate financial activity and maintaining the highest degree of standards in the industry, the Nevis Island Government undertook several initiatives:

- introduced by Ordinance two new amendments that required Nevis IBCs and LLCs who wish to set up administrative or management offices in the island to first obtain a license from the Minister of Finance.
- launched its website: nevisfinance.com
- conducted educational seminars and other programs to increase public awareness about the sector.

More recently, a measure was taken by the Nevis Government, in collaboration with the trust companies, registered agents and other service providers on the island to introduce the Service Providers Supervision Ordinance. This legislative framework ensures that all service providers on the island adhere to strict professional standards and are subject to a high level of due diligence prior to the issuance and continuance of a license and aimed at protecting the clients of the industry. Plans are in place to shortly enact this Ordinance.

Plans are in place for the following:

- To ensure that the high level of confidence will continue to exist between the Government and the private sector via NIBA.
- To work cohesively with the Service Providers to increase the market share in the industry.
- To enhance the training and development in Government and the private sector in the changing face of international financial services.
- To ensure that only persons with the highest degree of integrity are allowed to conduct business from Nevis.

Saint Christopher (St. Kitts)

In 1996, St. Kitts established itself as an international financial services centre. Its legislation include the Companies Act, 1996, the Limited Partnerships Act, 1996 and the Trusts Act, 1996 which were launched in April 1997 along with the Financial Services Regulation Order that established the Financial Services Department under the Ministry of Finance.

In 1998, the jurisdiction saw the establishment of its first trust company along with the launch of the offshore website: www.fsd.gov.kn. It also saw the appointment of a new Director General.

Plans are in place to:

- Enact new legislation with the aim of increasing St. Kitts as a legitimate international financial centre.
- increase the regulatory oversight, and
- aggressively promote St. Kitts as an international financial centre.

St. Lucia

In 1997, the Government of St. Lucia established the Offshore Financial Services Department. This action completes the circle with all Eastern Caribbean jurisdictions being involved in the offshore sector.

At the beginning of 2000:

- All of the 6 Acts, namely:- 1. The International Business Companies Act and 2) The Registered Agent and Trustee Licensing Act, 3) The International Trusts Act and 4) International Insurance Act 5) International Banking Act; and 6) International Mutual Funds Act, along with some of the supporting legislation were enacted.
- The financial centre was launched.
- To date, six service providers have been licensed and plans are in place to attract several others.
- Plans are also in place to enact more supporting legislation.
- The Director was replaced with a new director.

- Launched *Pinnacle St. Lucia* as the world's only public online IBC registry (More from Anthony Bristol tomorrow).

As the newest Caribbean international financial centre, St. Lucia expects to face many challenges given the competitive nature of the industry. However, it is anticipated that through its strong tourism industry, the island will be able to attract lucrative business opportunities.

St. Vincent and the Grenadines

In the past few years, St. Vincent and the Grenadines continued to enhance its position as an international offshore financial centre. Its comprehensive mix of offshore legislation was increased during the year to improve the quality of service provided and promote the island as a premier offshore jurisdiction.

In September, 1998, Parliament enacted two new amendments to its offshore laws, namely:-

- the International Insurance (Amendments and Consolidation) Act and
- the Mutual Funds (Amendments) Act 1998.

The Insurance amendment is designed to provide for the formation of captive and single-user insurance companies while the Mutual Funds amendment established the registration procedures for public funds and simple recognition procedures for private and accredited funds.

In 1999, comprehensive regulations for the implementation of the Insurance and Mutual Funds Acts were completed during March and the first funds and insurance companies were formed. During the year, offshore banks licensed to operate in the jurisdiction increased to 22, up by 10 from the prior year. The number is expected to increase as the country continues to promote itself as a major international financial centre.

The island now has over 26 Trust companies and over 24 Registered Agents.

For 2000, general activity as expected, has increased along with mutual funds and captive insurance. A new economic citizenship program is being drafted.

V. THREATS TO THE EASTERN CARIBBEAN COUNTRIES

Notwithstanding, in recent years, the entire offshore industry, and the small island states like those in the Caribbean have come under significant threats from the larger territories. These threats are highlighted in various reports such as the OECD⁴ report that classifies certain low or no tax countries, including those in the Caribbean as tax havens with

⁴ OECD is the acronym for Organization for Economic Co-operation and Development that is based in Paris and formed by 29 governments. The report entitled "Harmful Tax Competition: An Emerging Global Issue" was released in April 1998.

“harmful tax regimes” that pose a danger to “harmful tax competition.” As such, the OECD countries express a desire to protect and enhance their tax base and consequently advocate that tax havens should be closed down. It may be noted that the OECD was scheduled to release a “blacklist” of all harmful tax jurisdictions in early 2000. It was subsequently deferred until next year, 2001. Other reports such as *the U.N. Offshore Initiative*⁵ were also launched recently. This report is perceived as more reasonable than some of the others. I applaud the fact that the United Nations Global Programme recognizes the important distinction between money laundering and tax evasion. However, the desire of the Initiative to eliminate confidentiality, which is one of the major reasons for the existence of the international financial centres, poses a threat to the existence of our centres.

These and other reports of this nature have created a significant stir in the industry. As noted by the Bahamas Government, “these reports are a heavy handed approach to dealing with legitimate, properly-regulated international financial centres and threaten the very fabric of the societies of the island states of the Caribbean since their aim is to stamp out the legitimate industry that is currently allowing these small island states to stand on their own feet.”⁶

Main Threats

- Ability of major countries to cripple smaller countries.
- Prospects for concerted punitive action against non-cooperating centres (imposition of sanctions & increased scrutiny, etc).
- Exchange controls.
- Loss of reputation for confidentiality.
- Loss of competitiveness.

The OECD’s own advisory committee (BIAC) stated that these reports “attempt to mobilize the larger nations to adopt a strategy designed to make low tax countries abandon the activities upon which their livelihood has been based for many years and in which they have developed recognized expertise. Such a strategy could make these countries economically dependent on other nations.”

It goes without saying that our economies would suffer devastating losses if the financial services sector ceased to operate. Small fragile economies, such as ours and many of our neighbours, have made or are currently making the transition from agriculture into the service industry. We can ill afford to be cut down in the midst of this transformation.

⁵ It may be noted, though, that the United Nations in its Global Programme against Money Laundering recognizes the important distinction between money laundering and tax evasion.

⁶ Bahamas government challenges OECD Report in Offshore Red, October 1999

VI. CONCLUSION

As we continue our journey into the new millennium, I am convinced that the jurisdictions of the Eastern Caribbean have clearly demonstrated their capability to successfully compete in the global environment. Furthermore, they are committed to facilitating legitimate international financial activity. Therefore, despite the threats, I am confident that our jurisdictions will survive and indeed prosper. However, we must be mindful of the fact that in order to prosper, we must be willing to respond dynamically to the ever-changing global environment.