

FISCAL HARMONISATION IN THE
CARIBBEAN COMMON MARKET

A statement of the current position
concerning indirect taxes*

by
STANLEY ODLE

CUSTOMS POLICY SECTION
CARIBBEAN COMMUNITY SECRETARIAT
GEORGETOWN.

29th November, 1976

*Paper presented at the Eight Annual Conference of the Regional Programme of Monetary Studies, Barbados, December 1-4, 1976 under the Conference theme "Financing Caribbean Governments".

5

FISCAL HARMONISATION IN THE
CARIBBEAN COMMON MARKET

A statement of the current position
concerning indirect taxes ^{1/}

INTRODUCTION

This statement discusses the position within the Caribbean Common Market in respect of the application of indirect taxes on goods. It is essentially a presentation of the provisions of the Common Market Annex to the Treaty of Chaguaramas on, and a description of what has been done so far in, the area of indirect tax harmonisation pursuant to the provisions of the Treaty. No attempt is made at analysis of the effectiveness or otherwise of the Treaty provisions or of the extent to which fiscal policy affecting the production of and trade in goods at the individual national levels has influenced the integration process.

2. The Common Market Annex to the Treaty of Chaguaramas contains essentially two provisions of current concern on the application of indirect taxes in the Member States. These provisions are -

/a) Article ...

^{1/} In an addendum to this paper is a short statement on the position concerning direct taxes prepared by the Secretariat's Tax Administration Adviser.

- (a) Article 17 dealing with the application of revenue duties and internal taxation; and
- (b) Article 31 on the establishment of a common external tariff.

INTERNAL TAXES

3. Article 17 of the Annex imposes upon the Member States the obligation, in the application of fiscal charges, not to treat domestically produced goods more favourably than imports of like or directly competitive products from the other Member States. This Article takes up the position from Article 15 which first requires the elimination by Member States of import duties on goods originating in and imported from partner States. Having provided under Article 15 for the removal of tariffs protecting the domestic production of the Member States from competitive exports from within the region, Article 17 is intended to guard against the use of internal taxes as a substitute device for maintaining or restoring the protective character of the import tariff.^{2/}

4. The Treaty is therefore seen to limit itself to the requirement of non-discrimination against imported (i.e. Common Market) goods in the application by the Member States of revenue-raising and other forms of internal taxation. The Member States are otherwise free in

/their ...

^{2/} It should be noted that the Less Developed Countries are allowed to maintain import duties on certain goods originating in the other Member States until the end of April, 1983.

their choice of the goods upon which to apply internal taxes and in the determination of the level of such taxes. The revenue-raising internal taxes applied by the Common Market States are designated variously as consumption taxes, consumption duties, purchase taxes, revenue replacement duties, excise taxes and excise equalisation taxes. These taxes are levied on imports whether from other Member States or from third countries as well as on like domestic production where such production exists.

5. In Antigua, Barbados, Guyana, Montserrat, St. Kitts-Nevis/Anguilla, St. Lucia and St. Vincent consumption taxes are applied while in Dominica, Grenada and Jamaica, the tax is described as consumption duty. The difference in nomenclature is of no real significance. Trinidad and Tobago applies a purchase tax.^{3/} In Belize the tax is called revenue replacement duty. The products subject to the various forms of internal tax which are applied and the rates of tax differ between the Member States. It should be borne in mind, in noting this situation, that the Treaty of Chaguaramas contains no explicit undertaking by the Member States to harmonise or even to seek to harmonise their internal indirect taxes.

6. Some inconsistency has been observed in the application among the Member States of consumption duties/taxes. While the majority of States base the charge on imported goods on the c.i.f. value plus the import duty, it has been noted that a few compute the tax on the c.i.f. value exclusive of the import duty. On the assumption that internal tax on imported goods properly falls due when the goods have crossed the Customs barrier (that is, after they have entered the territory), then the taxable value should be the Customs value for duty plus the actual import duty. Where the c.i.f. value is used, the result, prime facie, is to subject the domestic product (ordinarily chargeable at the wholesale

/point) ...

^{3/} Guyana levies a purchase tax on only one item, namely, motor cars. It is computed on the car dealer's ordinary retail selling price.

10. Certain other indirect taxes such as stamp duty or stamp tax and parcels or package tax have been found to exist in some States. These taxes are reported to be applied on imported goods whether from within the Common Market or from third countries. Their compatibility with the Treaty provisions is yet to be determined.

IMPORT DUTIES

11. The provisions of the Annex to the Treaty regarding the application of internal taxes fall within that part of the Annex which is concerned with the trade liberalisation regime of the Common Market. The limited obligations which are assumed by the Member States under this part of the Treaty are much the same as those which governed their association under CARIFTA. The Common Market Annex, however, goes on to prescribe arrangements for the establishment of a common protective policy for the Common Market and here the Treaty lays down specific provisions for the harmonisation of external taxes.

12. Article 31 of the Annex prescribes the arrangements for the establishment of a common external tariff in respect of all goods entering the Common Market from third countries. In recognition of the disparate levels of external tariff rates applied by the Member States prior to the entry into force of the Treaty, provision has been made for the national tariffs to be progressively adjusted to the common level. The first step in this process took place at the time of the signing of the Treaty when the signatory States, Barbados, Guyana, Jamaica and Trinidad and Tobago also signed an agreement providing for the adoption of common external tariff rates in lieu of the national rates they were then applying. Most of the rates established under this agreement were to be applied immediately. For those goods where the States needed time to adjust to the common tariffs laid down, special commodity lists were drawn up setting out the time table and

the manner of this progressive adjustment. The phasing-in to the common tariff, described as the CARICOM Common External Tariff (CET), was to be completed by the four States by 1981. The following table shows how the phasing-in was to be carried out.

Member States	Commodity Lists	Annual rate of reduction of difference between national tariffs on July 31, 1973 and the Common External Tariff	Harmonisation period (commencing not later than 1st August in each year)
Barbados	List A	1/3	1974 to 1976
	List B	1/5	1974 to 1978
	List C	1/8	1974 to 1981
Guyana	List D	1/3	1974 to 1976
Jamaica	List E	1/3	1974 to 1976
	List F	1/4	1973 to 1976
Trinidad & Tobago	List G	1/3	1974 to 1976

13. As it turned out, when the CET-based national Tariffs were introduced on 1st August, 1973 (the agreement had been signed on 4th July 1973) the Member States had gone significantly ahead of the harmonisation time-table by applying much more of the common rates than they had originally thought themselves able to do,

14. Developments in the external economic relations of the Common Market States led to a major re-examination of the rate structure of the Tariff during 1975 and the adoption in January, 1976 of a single column schedule of rates in place of the two-column General and (Commonwealth) Preferential rate structure on which the CET had, up to this time, been based. In this new single-column structure, almost

all the agreed rates have been fully applied by Barbados, Guyana, Jamaica and Trinidad and Tobago (which had signed the agreement establishing the original two-column CARICOM CET). Barbados has been allowed to suspend until 1981 the common rates on certain products including products of the agricultural and fisheries industries, Trinidad and Tobago on one tariff heading and Jamaica on certain spirituous beverages.

15. The obligation to harmonise external tariffs was also assumed by the Less Developed Countries when they too signed the Treaty of Chaguaramas in 1974. Article 31 of the Common Market Annex to the Treaty on the establishment of the common external tariff provides for a gradual convergence of the divergent rates now being applied by the Common Market States into a common set of rates by 1985. The Member States of the East Caribbean Common Market (ECCM) had adopted a Common Customs Tariff late in 1972 prior to the establishment of the CARICOM CET among the four MDCs. The ECCM CET allowed for the application by some of the States of special duties pending the agreement on common duties for the goods concerned or with the understanding of the phasing-in of common duties where these had been already determined

16. The ECCM Customs Tariff is recognised by the Treaty of Chaguaramas as representing the first stage in the process towards external tariff harmonisation among the ECCM and the other CARICOM States. Insofar as Belize and Montserrat are concerned, the Customs Tariffs in force on 1st May, 1974 are similarly recognised.

17. The Treaty sets out how the rate differences between these several Tariffs are to be harmonised. An annual review of the Tariffs is to be carried out "in the light of the prevailing economic situation of the Less Developed Countries". Against the background of this review, the Member States are first to determine the target rates towards which the divergent rates will be adjusted and the manner in which the adjustment will be done. The Treaty envisages that the adjustment process would commence on 1st August 1977 and be completed by 1st August, 1981. In the case of Montserrat, the adjustment is to

begin later, 1st August, 1981 and end 1st August, 1985.

18. These provisions in Article 31 were laid down in 1973 when all the Member States were operating tariffs containing schedules of General and Preferential rates. Since then the CARICOM CET has been converted into a single-column structure of rates and so also has the Belizean tariff. This conversion has meant a change in the degree of commonality of rates which previously existed between the CARICOM and the other tariffs. It had been estimated that approximately 55% of the rates in the two-column CARICOM and the ECCM tariffs were the same. A preliminary estimate based upon the draft of a single-column ECCM tariff which was under consideration and the new single-column CARICOM CET suggested that this commonality might now be reduced to 40%. This is a very rough estimate. On the other hand, there is now about 90% commonality between the single-column CARICOM and Belize tariff. In the light of the Tariff changes which have occurred since 1973, questions have been asked whether the time-table laid down in the Treaty for the harmonisation of external tariffs is still applicable.

19. An integral part of the Customs tariff is the schedule under which concessional tariff treatment is granted to some goods notwithstanding the rates prescribed in the rate schedule itself. The CARICOM CET, the ECCM Tariff and the Tariff of Belize all contain schedules extending duty-exemption or reduction to goods which are imported for certain specified purposes, either industrial, agricultural, governmental, health, educational or cultural purposes. Under the CARICOM CET, the Member States have retained jurisdiction over the grant of concessional tariff treatment to imports for social, governmental, military, educational, cultural, health and diplomatic purposes. Control over the remaining areas of the operation of the CARICOM CET is exercised by the Common Market Council and any duty change (alteration or suspension of the CET) requires the unanimous vote of the Council. While the CARICOM CET duty exemption set out in the List of Conditional Duty Exemptions represent harmonisation at the maximum level (full duty exemption) among the signatory States,

/at ...

at the level of actual application in the Member States it has been the understanding that any State may refuse a concession outright or grant only a partial reduction in the rate ordinarily payable.

20. The Member States have agreed to examine the List with a view to reducing its coverage (and this could include some change in its actual application), but they are yet to submit any concrete proposals as a basis for a study of the new form which the List might take.

21. There are other areas of the application of the tariff which will require attention in the future as the process of total external tariff harmonisation proceeds. One area is the treatment of imports by travellers, whether visitors or returning residents. Agreement has already been reached among the four MDCs on the application of a system of flat-rate duty assessment on small non-commercial imports, goods in passengers' baggage and gift consignments where the value of the dutiable component is not in excess of 200 units of account. The next step in this area would be to harmonise the duty exemptions granted in respect of baggage and household effects. Other possible areas of harmonisation affecting the tariff include the system of granting duty refunds and the granting of drawback of duty paid.

22. A key aspect of the application of the common external rates where the absence of harmonised procedures could frustrate the objective of common rates is the nomenclature used for prescribing the tariff rates and the basis of value used for calculating the duty to be paid. In respect of the tariff itself, all the States except Montserrat, use the internationally known and applied Brussels (now the Customs Cooperation Council) Nomenclature. As regards the determination of the dutiable value of the imports, the system of Customs valuation has been harmonised on the basis of the Brussels Definition of Value. Efforts aimed at ensuring common levels of tax administration among the Member States in the interest of a harmonised application of the external tax rates are being pursued through the Common Market's Customs

Committee.

EXPORT DUTIES

23. The Treaty prohibits the imposition of export duties on goods which are destined for a consignee in another Member State. Export duties on intra-Common market trade are harmonised at zero rates with a five year moratorium (expiring in 1978) for the elimination of export duties on certain products falling within eighteen BTN headings or sub-headings. Belize has until 1981 to eliminate export duties on the products concerned. There is no Treaty provision regarding the harmonisation of export duties on goods intended for countries outside of the Common Market.

A SHORT STATEMENT ON THE POSITION CONCERNING THE
HARMONISATION OF DIRECT TAXES

PREPARED BY THE TAX ADMINISTRATION ADVISER
CARIBBEAN COMMUNITY SECRETARIAT,
GEORGETOWN.

29th November, 1976

DIRECT TAXES

The provisions of the Treaty dealing with direct taxes are to be found in Articles 40 and 41 of the Annex. Article 40 requires the harmonisation of fiscal incentives to industry and also expresses the agreement of Member States to study the possibility of approximating income tax systems and rates.

2. Article 41 deals with Intra and Extra-regional Double Taxation Agreements, and requires Member States to negotiate such agreements on the basis of a set of mutually agreed principles.

THE HARMONISATION SCHEME

3. In accordance with Article 40, an agreement for the harmonisation of fiscal incentives to industry was drawn up and signed by the Member Governments in 1974, and most of the Member States have amended their incentive legislation in accordance with that agreement.

4. The Agreement requires, inter alia, that tax holidays and other benefits be granted in accordance with the extent of the local value-added of the product of the particular enterprise. It also standardises the length of such holidays, with provisions enabling the LDCs to give longer periods.

INCOME TAX

5. Very little has been accomplished to date on the approximation of income tax systems, but rates of tax are very largely comparable. Some work is currently being undertaken in the LDCs, however, and recommendations have been made to ECCOM Governments, which, if adopted,

would have the effect of substantially approximating the tax laws, although it is very unlikely, or perhaps not even desirable that rates will be equalised.

DOUBLE TAXATION

6. A bilateral agreement for the avoidance of double taxation is in force between the LDCs as a group and the MDCs as a group, and negotiations are in progress on two others which are multilateral, one among the LDCs as a group, and the other among the MDCs as a group. The ECCM countries and Belize are also currently in the process of negotiating a multilateral agreement with Canada.