

## White Collar Bullying on the International Playing Field: An attack on the Caribbean Credit Bureau

The world has somewhat evolved into borderless single market where everyone is operating on an international playing field. Globalization, liberalization, development, harmonization and integration are the words used to describe the global breakdown of barriers as it relates to the trade of goods and service and the increased market access to foreign companies through cross border trade, cross country merges, foreign investment and joint ventures. National economies have interacted with each other for many years especially with regards to goods, however in more recent times there has been a shift of focus to the service sector due to rapid growth of this sector in the national economies of both developed and developing countries.

Although there is uncertainty to the actual size of the financial service sector in Caribbean countries, the available data indicates that it is indeed growing rapidly.<sup>1</sup>With regards to Barbados, between the year 1996 to 2001, finance service earnings accounted for 24% of commercial revenues. Over the years the sector has been consistently performing as the second most important foreign exchange earners after tourism<sup>2</sup>. However in this process of globalization, the peculiarities and vulnerabilities of states should also be borne in mind especially for small developing countries due to the apparent economic inequality they have when compared with developed states.

The international playing field is clearly not level and therefore it is essential to regulate and oversee the activities and practices that states in this global market engage in. Entrusted with the responsibility of supervising the activities on this international playing field and spurring on the process of globalization are the international organizations such as the World Trade Organization and the World Bank Group and its subsidiary organs such as the International Finance Corporation (IFC) and International Development Association (IDA). However what happens in the situations where those who are supervising are not playing fair resulting in greater disadvantage and imbalance of opportunity to participate on the international stage?

The five institutions of the World Bank Group are owned by their member countries. To become a member of the International Bank of Reconstruction and Development (IBRD) better known as the World Bank, a country must first join the International Monetary Fund

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<sup>1</sup> World Bank Staff, Organisation of American States Staff, 2009 Accelerating Trade and Integration in the Caribbean: Policy Options for Sustained Growth, Job Creation, and Poverty Reduction: World Bank Publication

<sup>2</sup> Eastern Caribbean Currency Union: 2009 Discussion on Common Policies of Members Countries - Staff Report; and Public Information Notice on the Executive Board Discussion International Monetary Fund, January 28<sup>th</sup> 2011 Working Paper Institute for Integration of Latin America and the Caribbean (INTAL) 2004

(IMF). Similarly, membership in IDA, IFC and Multilateral Investment Guarantee Agency (MIGA) is contingent upon membership to the IBRD. Barbados has been a member of the IBRD since September 12<sup>th</sup> 1974, the IDA since 1999, the IFC since June 12<sup>th</sup> 1980 and MIGA since 1988.<sup>3</sup> However through research conducted, many discrepancies have been discovered as it relates to Barbados on various websites under the auspices of the World Bank Group. For example the Doing Business Report issued by the World Bank failed to publish any information on Barbados for many years. The Doing Business Report provides rankings, rating a country's economy based on the regulations it has in place to accommodate and facilitate the establishment and operation of business.

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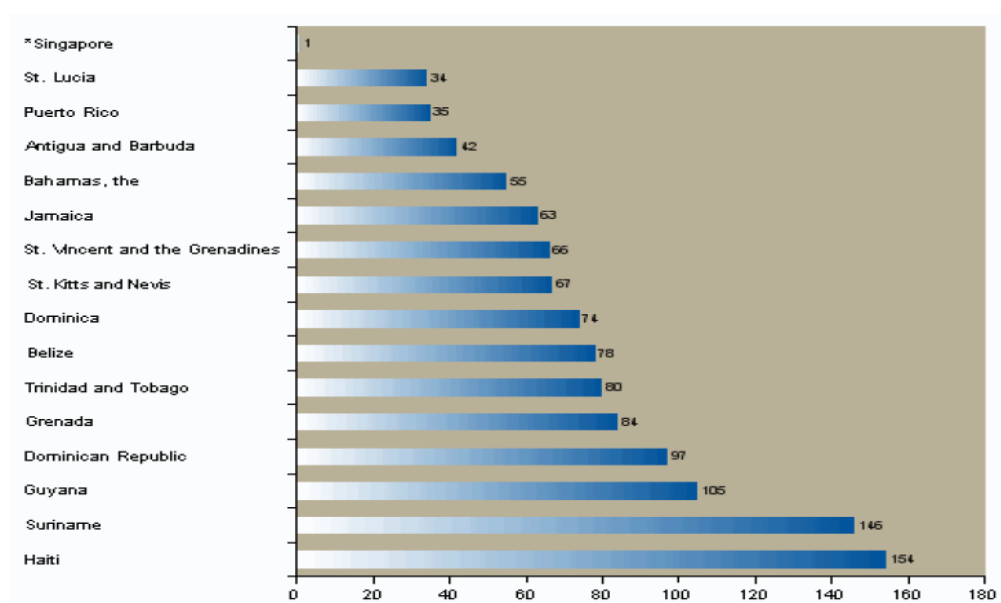
### Economy Rankings

Economies are ranked on their ease of doing business, from 1 – 183, with first place being the best. A high ranking on the ease of doing business index means the regulatory environment is conducive to the operation of business. This index averages the country's percentile rankings on 10 topics, made up of a variety of indicators, giving equal weight to each topic. The rankings are from the *Doing Business 2010* report, covering the period June 2008 through May 2009.

Rankings by region:

Ranking by income:

Rankings by population:



After realizing Barbados was not listed as a place to do business in the IFC's 'Doing Business Report' we raised this in a teleconference with the IFC and sought to determine the reason for this omission. This led to an exchange of emails requesting a meeting with the IFC (see 'Exchange of emails') When Maria Goodman Pincetich and others from the IFC tried to place the blame on Permanent Secretary Juanita Thorington-Powlette, we contacted her to inform her of the IFC's claim that because she failed to respond to the IFC on a timely basis Barbados was omitted from the Doing Business report. . These allegations were vehemently denied by Mrs. Thorington-Powlette\*\* who vowed to get to the bottom of it.

Several follow up meetings were held with Governor of the Central Bank, Dr. Marion Williams, and Mr. Ivor Carryl from CARICOM Government Ministers, IFC and CIDA representatives, in order to further investigate and to see how we can go about getting Barbados included in the Report were also held.

Although, from 2013, Barbados is now appearing on the doing Business Report, on further examination of the Doing Business website one would discover another area to which Barbados has been unfortunately left out; that is within the law library. (<http://www.doingbusiness.org/law-library>) The Doing Business law library is deemed by the World Bank as being the largest free online collection of business law regulations. They note that the collection is updated regularly but indicated through their disclaimer that they are unable to guarantee that laws are the most recent version. Barbados which is part of the Latin America and Caribbean region as defined by the World Bank is not featured once again. This may suggest to a potential investor that our omission from this list is a result of our failure to implement Banking and Credit laws and we therefore do not have the adequate regulatory framework necessary.<sup>4</sup> However Barbados does indeed have banking laws such as the Financial Institution Act and the International Financial Service Act.

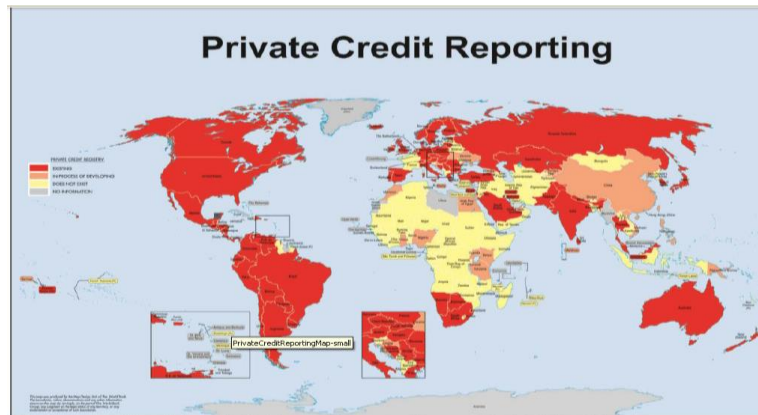
Another example of the exclusion of Barbados can be seen in the IFC publication of the Global Credit Reporting Program. This publication provides charts and maps illustrating countries which have existing, developing or no private consumer credit bureaus serving financial institutions and other lenders. It highlights that the data comes from country

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<sup>4</sup> The World Bank 2012, Doing Business Law Library Banking and Credit Laws, Retrieved: December 4, 2012 from (<http://www.doingbusiness.org/law-library>)

\*see 'Meeting Minutes – 20091112' \*\*see 'Phone Conversation - 22091118' \*\*\*see 'Central Bank Meeting minutes – 20091118' and 'Minister Meeting minutes – 20091118'

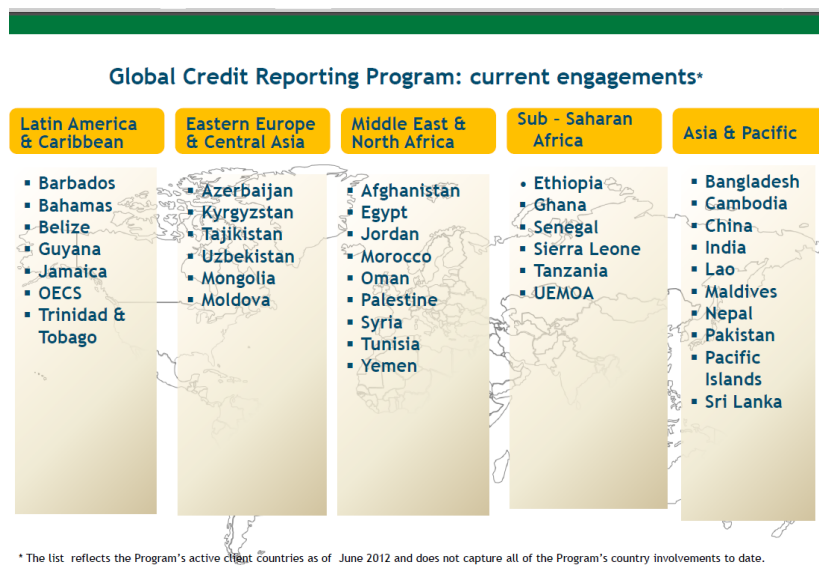
assessment and advisory work of the IFC's Global Credit Bureau Program and the Doing Business Survey<sup>5</sup>



According to the map key Barbados which is highlighted in gray does not have any information.

Yet within the same publication, Barbados is listed as one of the IFC program's active client countries as of June 2012.

<sup>5</sup> International Finance Corporation( 2012, August) Global Credit Reporting Program Retrieved : November 15 2012 from <http://www1.ifc.org/wps/wcm/connect/f145c7004a52403c8f358f8969adcc27/Global%2BCredit%2BReporting%2BProgram%2BPresentation.pdf?MOD=AJPERES>)



## IFC and CIDA Investments

Both the IFC and CIDA in recent times have reportedly made significant contributions to the financial services in the Latin America and Caribbean. The IFC in 2007 launched a program with over USD\$3 billion in funding to provide finance for Micro, Small and Medium Enterprises. Since Jamaica became a member of the IFC it has invested \$606 million in the country's private sector<sup>6</sup>. The Latin America and Caribbean received the highest percentage of investment by the IFC with 36 % of the funding targeting the financial markets<sup>7</sup>. Similarly, CIDA plays an important role in the process of globalization and more specifically, the liberalization of markets in the Caribbean. Not only does it contribute millions of dollars to the World Bank's International Finance Corporation but it oversees relations with the UN development agencies, regional development banks and most multilateral technical assistance programs. In its inception, CIDA fought off recommendations that its subcommittees should focus on trade as it is felt that in international systems, economic forces often cripple the development forces. Canadian interest should not be allowed to dilute or interfere with their basic commitment to improve the lives of the poorest people and the poorest countries.<sup>8</sup> In 1981 the government designated the Commonwealth Caribbean as a priority area and aid to the region was doubled. However as time progressed, its initial ideals and perspectives on

<sup>6</sup>International Finance Corporation 2012 Latin American and the Caribbean Retrieved: November 21 2012 from ([http://www1.ifc.org/wps/wcm/connect/region\\_ext\\_content/regions/latin+america+and+the+caribbean/countries/jamaica](http://www1.ifc.org/wps/wcm/connect/region_ext_content/regions/latin+america+and+the+caribbean/countries/jamaica) )

<sup>7</sup>International Finance Corporation 2012 IFC's Partnership with Latin America and the Caribbean. Retrieved : November 15 2012, from ([http://www1.ifc.org/wps/wcm/connect/region\\_ext\\_content/regions/latin+america+and+the+caribbean/news/ifcs+partnership+with+latin+america+and+the+caribbean](http://www1.ifc.org/wps/wcm/connect/region_ext_content/regions/latin+america+and+the+caribbean/news/ifcs+partnership+with+latin+america+and+the+caribbean))

<sup>8</sup> Morrison, D. & Laurier, Wilfrid (1998). Aid and Ebb Tide: A history of CIDA and Canadian Development Assistance. University Press

focusing on humanitarian efforts changed and the focus of CIDA was shifted to promoting joint ventures and partnerships with Canadian firms under the guise of assistance or aid. This could be described as Aid-trade where CIDA became the launch pad for Canadian firms to seek export opportunities and propel their entrance and expansion into Latin America and Caribbean markets. Canadian commercial interest and trade was now the priority. This strategy begs the question of whom are they really helping and whose development has been advanced.

In modern times CIDA has 'funded' various 'initiatives' across the region especially within our financial sector. Between 2008 and 2011 \$25 million dollars has been spent on the Caribbean Regional Technical Assistance Centre (CARTAC) which provides technical assistance and training in financial management. Programs were developed to promote private sector growth and create job opportunities, especially for women and youth. There is an ongoing program to improve debt management, provide policy advice and technical assistance. These facts and figures are very impressive however focus should be drawn not to the reported amounts being invested but the effect and impact it has had; more importantly who is receiving the funds.

The Auditor General Report provides a useful insight into the effectiveness of CIDA's ability to ensure that the funds provided are actually being used for their intended purpose and have actually fulfilled the developmental goals. The investments that are deemed to be for the region, are not always being provided to by the various regional governments or their organizations but rather to Canadian executing agencies such as Canadian private sector companies and organizations as well as other international and United Nations organizations. This still occurs even though CIDA in its 2002 Policy Statement would have made a commitment to align its efforts with recipient countries' needs and use the government and local organizations to deliver the programs using local systems and procedures.<sup>9</sup> In the report of the Auditor General of Canada 2005,<sup>10</sup> CIDA was heavily criticized for the manner in which it selected who receives the funding. The agency can transfer its funds provided for international assistance to executing agents through contracts, contribution agreements and grant agreements. The award of contract is subject to Government Contracts Regulations and Treasury Board's contracting policy which mandates that competition and thus the submission of bids should be on the basis to which one determines who receives the funding. CIDA's grant and contribution agreements are not subject to government regulations but rather the terms and conditions for International Development Assistance implemented in 2001 and the associated

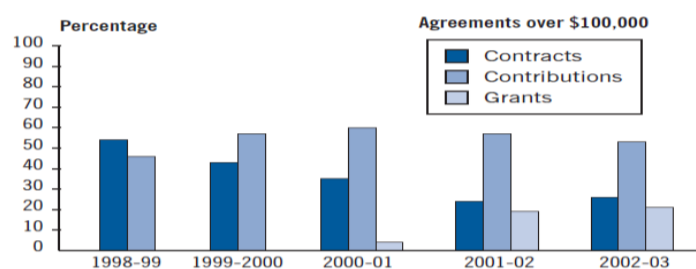
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<sup>9</sup> Report of the Auditor General of Canada to the House of Commons Chapter 8 Strengthening Aid Effectiveness- Canadian International Development Agency Fall 2009

<sup>10</sup> Canada International Development Agency Financial Compliance Audits and Managing Contracts and Contributions Reports of the Audit General of Canada February 2005

Framework Policy for International Development Assistance. As noted by the Auditor General these terms and conditions are general, lack any decisive instructions for the use of competitive and non-competitive approaches for the determination of who can enter into the contribution agreement. Since 2000 CIDA has increased the use of grants to fund 'aid' projects. Concerns were raised over this preference by CIDA to issue funding through grants as it would mean that CIDA was relinquishing control and supervision over how the recipient spent CIDA funding. With this degree of control gone, the executing private companies could easily spend the money to suit their own commercial interest rather than to assist the developmental objectives proclaimed by CIDA. The use of contracts as the method of allocating funding is slowly diminishing as illustrated in the following chart.

**Exhibit 5.1** Distribution of contract, contribution, and grant agreements over \$100,000 in CIDA's Geographic Branches



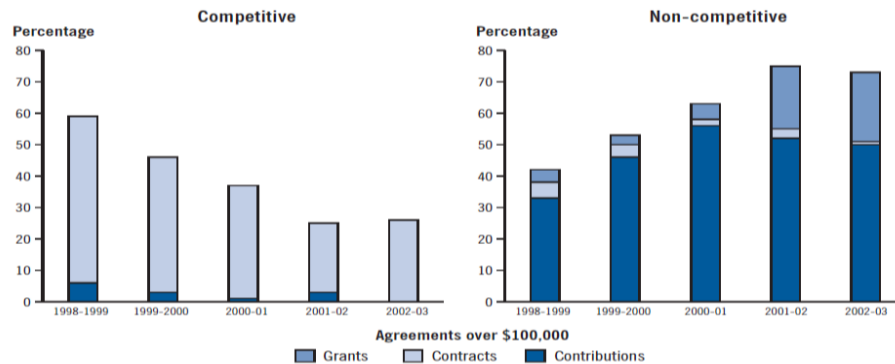
Source: CIDA (unaudited)

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It is possible to conclude that since the contracts are regulated by government rules and mandates a more transparent and just method through the requirements of competition and bids, there has been a decrease in the use of contracts and the preference of CIDA is to use a more lenient and hidden method through contributions and grants to the Canadian executing agencies since the regulations governing these measures are less stringent and general. It must be noted that competitive processes can also be applied to contributions however, there is no clear indication or mandatory requirement in the terms and conditions of what is to be applied and therefore the non-competitive methods is usually selected as illustrated to the chart below.

<sup>11</sup> Canada International Development Agency Financial Compliance Audits and Managing Contracts and Contributions Reports of the Audit General of Canada February 2005

**Exhibit 5.2 Competitive and non-competitive agreements over \$100,000 in CIDA's Geographic Branches**



Source: CIDA (unaudited)

Canada's influence in the mining industries of the regions across the globe can provide useful illustrations as to how CIDA seeks to make investment to assist the development of emerging markets. As reported in the *Globe and Mail*, <sup>12</sup>Ms. Oda President of CIDA announced partnership with Canadian multinational extractive companies Barrick Gold, IAMGOLD and Rio Tinto Alcan. This partnership surrounds a \$27 million dollar project for mining industries in Africa and South America. These companies are highly profitable gold industry companies that would not need any aid or funding. Yet CIDA is partnering with them and entrusting aid money to these large conglomerates. Jennifer Moore of Mining Watch Canada<sup>13</sup> views these partnerships as government subsidization of multimillion dollar companies like Barrick Gold by channeling international aid money into corporate social responsibility projects. Barrick Gold is the gold industry leader and the largest gold mining company in the world with its headquarters in Toronto Canada. However it has developed a questionable reputation and has been listed in the top ten of the most controversial mining companies. Despite this reputation, CIDA has maintained that these partnerships would improve the effectiveness of aids<sup>14</sup> and justify this allocation by contending that the money is being used to develop the necessary mining laws and to bring reform to the industry and thereby improve the operation of the mining sector. In Honduras where CIDA launched a restructuring project of the mining laws it was deemed that the rules are not transparent or democratic and has caused an upheaval among the various human rights and environmental organizations. Furthermore it was reported that the legislative commission was under "enormous pressures from investors" to pass the law quickly.

<sup>12</sup> Leblanc, D. (2012 January 29). CIDA funds seen to be subsidizing mining firms. *The Globe and Mail*

<sup>13</sup> Moore, J. (2012) Canada's Subsidies to the Mining Industries Don't Stop at Aid: Political Support Betrays Government Claims of Corporate Social Responsibility

<sup>14</sup> HC Deb 7 May 2012,



The vague manner in which funds are allocated along with the examples provided in the mining industry raises many questions and doubts about the operation of CIDA's programs and whether they are really to assist in the development of the emerging markets. Many people would readily welcome the influx of aid or assistance provided by such organizations however one must be weary of such investments as *"foreign aid can be conceptualized as a self interested tool, designed to further the donors own political commercial and security interest."*<sup>15</sup>

Apart from the apparent deficiency of a transparent method allocating to Canadian executing agencies billions of dollars of fund or aid assigned to assist with the development of emerging markets, liability for corruption, lack of adequate documents and lenient procedures for the recovery of money from executive agencies, the organisational structure of the Canadian International Development Agency also has many weaknesses. Firstly CIDA does not have governing legislation that defines its mandate and role. This can be viewed as the basis for the subsequent problems in the organization of the agency. Without any authoritative directive, it leaves the agency open to the influences of individuals to then dictate the objectives of the agency. This has already happened and still continues to. CIDA is a victim of a system that has too many 'masters'.<sup>16</sup> As noted by the Auditor General of Canada frequent changes in policy direction and substantial turnover of senior personnel in recent years have posed significant challenges for CIDA's aid effectiveness agenda.<sup>17</sup> Authorization of projects from CIDA is based on a hierarchy in which the Treasury Board is at the top and has the authority to approve projects worth more than \$20 million. The Minister of International Cooperation has the authority to approve projects up to \$20 million while CIDA's president and vice president have the authority to approve projects of up to \$5 million and below the country directors. However since 2000, Canada has had five different ministers of International Cooperation and four different Agency presidents. With each change of personnel, there was a change in programming, development objectives, shift in the priority countries and regions, and funding allocations have also been changed. These constant adjustments simply hamper the progress and execution of programs which would affect the overall effectiveness of the programs and funding. Moreover there is always the possibility of these influences abusing the power bestowed to them and thus there may be another situation as highlighted in the 2000 Audit Report where CIDA granted a \$6.3 million contract to a company headed by a friend of Prime Minister Jean Chretien. In the Auditor General's opinion *due to the lack of clear direction, coupled with the broadly defined and shifting priorities, the Agency is in a situation where it is not realizing the*

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<sup>15</sup> Brown, J. (2007) CIDA under the Gun. In J Daudelin, D Schwanen (Ed.) Canada Among Nations 2007 What Room to Manoeuvre?( pp 91). Canada: Mc-Gill Queen's University Press

<sup>16</sup> Carin B, Smith G Reinventing CIDA prepared for the Canadian Defence & Foreign Affairs Institute May 2010

<sup>17</sup> Report of the Auditor General of Canada to the House of Commons Chapter 8 Strengthening Aid Effectiveness- Canadian International Development Agency Fall 2009

*benefit of its intended goal to create a more meaningful Canadian contribution to a country or region.*<sup>18</sup>

In June 2008 there was an attempt to legislatively mandate Canadian official development assistance abroad through the Official Development Assistance Accountability Act. Under this act the central focus of assistance was to be on poverty reduction in a manner consistent with Canadian values, Canadian foreign policy and the principles of Paris Declaration of Aid Effectiveness, sustainable development and democracy and promotes international human rights standards. Although the provision attempts to re-shift the focus of Canadian international assistance to alleviate poverty, it fails to address whether the aid spending truly takes into account the perspectives of the poor.<sup>19</sup> Moreover, there is not an analytical or methodological linkage between CIDA's activities and how those activities results in poverty reduction.<sup>20</sup> Thus apart from these few obligations and the requirement for reports there is no true accountability being enforced on the members of CIDA and the manner in which they allocate their funding. There are still very few regulations governing or outlining the responsibilities of CIDA and until more stringent regulations are put in place, the level of accountability necessary would not be implemented. Thus one may face another situation as reported in the 1999 Audit Report where it was observed that CIDA failed to provide an adequate rationale for its decision not to recover funds in error by its financial compliance audits and CIDA officers often release Canadian executing agencies from the obligations to repay money received for expenditures that were not covered under the terms of their agreement.<sup>21</sup>

Moreover as reported by Probe International,<sup>22</sup> there was a recent corruption scandal involving the misappropriation of Canadian, Swedish and Dutch aid money in which CIDA was caught off guard and had no ability to detect that its funds were being used inappropriately and they tried to extenuate the problem by painting it in a positive light. This is another factor that one has to consider in the administration of aid.

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<sup>18</sup> Report of the Auditor General of Canada to the House of Commons Chapter 8 Strengthening Aid Effectiveness- Canadian International Development Agency Fall 2009

<sup>19</sup> Canadian Council for International Co-operation (2010) A Time to Act- Implementing , Ottawa Brian Tomlinson

<sup>20</sup> B, Tomlinson & F Reilly-King, The Elusive Quest for Pro-Poor Growth: An Analysis of CIDA's Sustainable Economic Growth Strategy 2011 Ottawa

<sup>21</sup> Canada International Development Agency Financial Compliance Audits and Managing Contracts and Contributions Reports of the Audit General of Canada February 2005

<sup>22</sup> Yauch B ( 2011, January 17) PI Exclusive: Internal documents obtained by PI show CIDA failed to detect fraud Probe International <http://journal.probeinternational.org/2011/01/17/pi-exclusive-internal-documents-obtained-by-pi-show-cida-failed-to-detect-fraud/> website accessed December 4, 2012

## Credit Bureau

However looking at the examples provided in the mining industry and the apparent lack of direction in the administration of aid, one may begin to question whether a similar situation is occurring in the credit bureau programs supported by IFC and CIDA. Is this program being used to propel Canadian and other states interest? Who are the funds going to? What adjustments are in store for this program? Are these funds actually going towards the development of Caribbean companies? Whose development is being advanced?

The IFC has lauded itself for the provision of a combination of investment and advisory services to the emerging markets of the Caribbean such as conducting risk assessment, educating about risk management and responsible lending, providing technical assistance and training to loan officers, strengthening credit technology, developing credit policies, etc. Furthermore IFC has praised itself for being at the forefront of private credit bureau development creating the Caribbean Credit Bureau Program and commends their partnership with the Canadian International Development Agency (CIDA) which similarly supports the development of the credit bureau in the English speaking Caribbean since 2009.<sup>23</sup> Trinidad and Tobago is heralded for bringing credit reform to the Caribbean in 2004 in conjunction with TransUnion and its partnership with Infolink Services Limited under the name Credit Reporting Services Limited. This was even though the World Bank would have been impressed with the progress made by Caribbean Credit Bureau Limited after they asked the company to participate in a survey and study conducted by them on credit reporting in emerging markets and furthermore issued an invitation to attend a conference in Miami in 2001. In this study, CCBL would have shared its experiences and successes, disclosed its difficulties and informed them of its desire to expand and provide this essential service to other countries in the region. Moreover, CCBL would have engaged in discussions with Infolink to work with them in a joint venture to establish credit bureau operations in Trinidad and Tobago. After receiving some indication that the company would have had a good chance of such a venture, we later learned that TransUnion was the successful company in entering the joint venture.

Nevertheless there is the portrayal by these organizations that the other Caribbean islands are behind Trinidad having no automated credit bureau and therefore there is a need for TransUnion and other foreign credit bureaux to expand in the region with Barbados and

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<sup>23</sup> International Finance Corporation, (2010) Caribbean Credit Bureau Program IFC Advisory Service in Latin America and the Caribbean Access to Finance (2012) Case study on credit reform in Trinidad and Tobago. Retrieved December, 6 2012, from: (<http://www.doingbusiness.org/reports/case-studies/2009/credit-reform-in-trinidad-and-tobago>)

Guyana being high on their prospect list.<sup>24</sup> However within the same article<sup>25</sup> it was nevertheless noted that credit agencies existed in Trinidad and Tobago for decades.

## **History of Credi-Check and Caribbean Credit Bureau**

The Caribbean Credit Bureau Limited was conceptualized over 22 years ago after remedying a problem that companies were experiencing in Barbados relating to bounced cheques. To counteract this issue a group of seven Barbadian companies started sharing the names of those who were causing the problems. Due to the success of this initiative the concept was broadened and ultimately resulted in the incorporation of Credi-Check in November 1993 by Mr. Grady Clarke the organizer and founder of the first privately owned credit bureau operating in Barbados. However due to the expansion in the Caricom market, in particular Trinidad and Tobago, where there was an established company with a similar business model named Credit Chex, the company was renamed and rebranded as the Caribbean Credit Bureaus Limited. This was not only to facilitate the potential expansion, but also to eliminate any confusion with Credit Chex. However in Barbados the company is still popularly known as Credi-Check.

In the IFC publication<sup>26</sup>, it was noted that there was the existence of credit bureau in Trinidad prior to the entrance by TransUnion and the launch of Credit Reporting Services Limited in 2004. However they sought to distinguish themselves due to the state of the ICT. However the Caribbean Credit Bureau also had an innovative Web Integrated Reporting and Enquiry (WIRE) system.

Furthermore within Barbados there is some 'absentmindedness' or an unfounded unawareness to the existence of the Caribbean Credit Bureau. As reported in the November 23 2012 edition of the Barbados Advocate, Daniel Farmer, Managing Director of Retail

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<sup>24</sup> International Finance Corporation Ramos C, How Trinidad and Tobago brought credit reform to the Caribbean.

<sup>25</sup> Ramos C, How Trinidad and Tobago brought credit reform to the Caribbean

<sup>26</sup>International Finance Corporation, (2010) Caribbean Credit Bureau Program IFC Advisory Service in Latin America and the Caribbean Access to Finance (2012) Case study on credit reform in Trinidad and Tobago. Retrieved December, 6 2012, from: (<http://www.doingbusiness.org/reports/case-studies/2009/credit-reform-in-trinidad-and-tobago>)

Banking, Business Banking and Insurance at CIBC<sup>27</sup> First Caribbean would have suggested that there was no credit bureau established in Barbados and he is determined to launch one here and in the Eastern Caribbean in partnership with the IFC. It is quite unfortunate that Mr. Farmer may have been unaware or forgot that under the previous name Credi Check, Barclays Bank and CIBC would've subscribed to our services individually from as

<sup>27</sup> Canadian Imperial Bank of Commerce



early as 1995. Since then, despite their subsequent merger and rebranding to First Caribbean International, and Credi Check rebranding as CCBL, they still continue to enjoy the benefits of our services to this day.

However, many other companies would have recognized the significant contributions and assistance that the Caribbean Credit Bureau would have rendered consistently over the years. In 1994 Caribbean Commercial Bank acknowledged and commended the company for implementing such a project at that time, noting that in *the absence of any competition or effort of the Banking sector to establish its own database, the product offered by Credi-Check is a welcome addition to the credit landscape.*<sup>28</sup> The company would have received a testimony from Standard Distribution after a few months of testing outlining how immensely useful the service has been to the Credit Department of the company.<sup>29</sup>

Even though the company would have received testimonials and recognition from major financial institutions in the region, it has nevertheless been consistently overlooked and neglected by regional and international entities. Even where there is a particular initiative developed in the region to provide technical assistance in the areas to which the Caribbean Credit Bureau would have specialized in over the years, the company is still not included to participate in such an opportunity.

## **CARTAC**

Caribbean Regional Technical Assistance Centre (CARTAC) became operational in 2001 with the assistance of the IMF, CIDA and other international development agencies. This program was launched to provide technical assistance in five core areas, those being; public finance management, tax policy and administration, financial sector regulation and supervision of capital markets, economic statistics and financial program through training courses, seminars and workshops. With regard to the financial sector emphasis is to be placed on the development of laws, training for the supervision of credit unions, the development of credit agencies in the region and the launch of a financial literacy website<sup>30</sup>. The initiative was expected to combine local expertise and on-the-ground capacity building with strategic advice from IMF headquarters<sup>31</sup>.

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<sup>28</sup> Letter from Caribbean Commercial Bank's Chief Executive Office Mariano Browne to Mr. Grady Clarke ( 6 October 1994)

<sup>29</sup> Letter from Director of Standard Distributions Mr. Edghill to Mr. Grady Clarke (14 March 1994)

<sup>30</sup> Eastern Caribbean Union: 2009 Discussion on Common Policies of Members Countries- Staff Report; and Public Information Notice on the Executive Board Discussion International Monetary Fund June 2 2009

<sup>31</sup> International Monetary Fund, Caribbean Regional Technical Assistance Centre (2012) About CARTAC. Retrieved November 20 2012, from (<http://cartac.org/about-cartac/>)

Apart from making requests for assistance under this program for working capital, technical assistance and exposure to other credit bureau operations in the discussion and meetings that Mr. Clarke would have engaged in with the CARTAC office, he would have expressed a willingness to assist in any capacity that he could have, in cooperation with the project and the IFC and to provide input into any proposed credit reporting legislation in the Caribbean.

However rather than using the local expertise within the region where a desire to assist was expressed, the IFC would have opted to outsourced individuals and thus around January 2012 posted a vacancy on a international development website for a Short Term Consultant for the Caribbean Credit Bureau Project to develop an enabling environment that encourages private sector credit information, assist government with developing the sharing of infrastructure, host educational programs and seminars, promote responsible lending and borrowing practices, develop credit reporting legislation, develop a financial literacy program. The candidate must have had at least 10 years experience in credit reporting or banking experience, in depth knowledge of the credit reporting industry and familiarity with best practices.<sup>32</sup>

The company would have invested heavily in CARICOM market research to conduct credit management training sessions, as well as being involved in developing a database so that the rest of the region would be exposed to these invaluable concepts and strategies to strengthen their business and economies. Thus seminars, training and conferences were held in Antigua, Anguilla, Dominica, Jamaica, St. Kitts & Nevis, Grenada, St. Lucia, St. Vincent and Trinidad. Since there was little knowledge of the requirements for the successful functioning of a credit bureau, the first years were more difficult than anticipated as we first had to educate prospective subscribers, often teaching them basic database development. Time was spent educating these companies of using the internet and technology as a business tool to further improve credit management. Furthermore, not only were company resources used to provide these companies with new or re-used computer equipment to assist them in developing the databases of their customers and recording their credit and payment histories electronically but also free training and IT consultancy was also provided to companies that required it.

Below is a list of a few seminars and training sessions conducted by the Caribbean Credit Bureau across the region :

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<sup>32</sup> Devex,(2012) International Development Short Term Consultant Caribbean Credit Bureau Project. Retrieved December 6, 2012, from: (<http://www.devex.com/en/jobs/short-term-consultant-caribbean-credit-bureau-project-18713> )

- The CSME Ready Credit and Recoveries seminar at Blue Horizon Hotel in Rockley Christ Church Barbados which attracted more than 30 participants for Barbados, St. Kitts and Nevis, Antigua, Dominica, St. Lucia, Grenada, St. Vincent and the Grenadines from the banks, credit union, insurance, micro-enterprise and automotive industries.
- Successful Credit Management in St. Vincent & the Grenadines at the Haddon Hotel held on January 10<sup>th</sup> 2008
- Cutting Edge in Credit & Collections at Jamaica Conference Centre, January 23-24
- Best Practices in Credit Risk and Recoveries, February 12-13
- Best Practices in Credit Conference at Carl's Unique Inn March 5-6 2008 St. Maarten
- Debt and Delinquency Management April 17-18, Bay Gardens Inn St. Lucia
- Successful Credit Portfolio Management, May 15-16, Hilton Hotel Grenada
- Getting Paid on Time Class Seminar at Kapok Hotel on March 19-20
- Comprehensive Collection Conference at the St. Vincent and the Grenadines Chamber of Commerce on October 8<sup>th</sup> 2008
- Best Collections Practice during Recession seminar at the St. Vincent and the Grenadines Chamber of Commerce on October 21<sup>st</sup> 2008





## Trinidad & Tobago Police Credit Union Co-operative Society Limited.

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**BANKERS:**  
SCOTIABANK  
TRINIDAD AND TOBAGO LTD.  
Eastern Main Road.  
San Juan.

Our Ref:

Your Ref:

6th June 2011

Mr. Grady Clarke  
Chief Executive Officer  
Caribbean Credit Bureau Limited

Dear Mr. Clarke

The Trinidad and Tobago Police Credit Union expresses its appreciation to you for the excellent facilitation of the two (2) day workshop entitled '**Credit Management and Debt Recovery**' held on **Monday 21<sup>st</sup> and Tuesday 22<sup>nd</sup> February 2011.**

The knowledge and expertise in this area was well received by twenty-one (21) members of staff in the capacity of Loans Officers, Senior Clerks and our Recoveries Department.

The overall evaluation of the workshop was excellent owing to his delivery of the learning objectives by the utilization of effective strategies used to encourage employee participation in the sessions.

We are please to inform that there is a noticeable change in behavior by members of staff through the display of new techniques learnt, improve interviewing, collecting and communication techniques by the members of staff.

In general, the workshop was exceptional and met the needs of our organization.

We look forward to engaging your services in future.

Yours sincerely,  
**TRINIDAD AND TOBAGO POLICE SERVICE CREDIT UNION**  
**CO-OPERATIVE SOCIETY LIMITED**

MRS. JAMIILAH LINTON-MELVILLE  
MANAGER, HUMAN RESOURCE

**BRANCH OFFICES:** 17-19 Irving Street, San Fernando • Phone: 652-1587 • Fax: 653-1294  
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**Consumer Department:** 62 Tenth Street, Barataria. • Phone: 674-6514; 0963; 4681.

These seminars would have enlightened its many participants about fraud detection and prevention, the risks and exposure to fraud, effective use of credit, risk management, debt recovery and the techniques as well as provide them with the relevant tools to minimize such risks and develop an understanding of how to implement them and to detect the signs.

In 2007, as reported in the Barbados Nation Newspaper<sup>33</sup> the Caribbean Credit Bureau had already recognized the need for regional government to have a harmonized credit rating legislation as expressed by the acting CEO at that time Bianca Williams, the company was not only interested in benefiting one territory but all the territories. It was recognized that the legislation should make provision not only to allow and accommodate information sharing, but to also offer consumer protection. She expressed that this regional collaboration would create a collective front to meet the credit challenges. This demonstrates the vision that the company would have already had before there was even the establishment of the Caribbean Regional Technical Assistance Centre<sup>34</sup> and the investments made by CIDA, the Data Protection Bill in Trinidad, the implementation of a Credit Reporting Act in Jamaica<sup>35</sup> and the recent discussion of the Caribbean Association of Banks (CAB) in their seminar in St. Lucia where it was indicated that the CAB agenda is to establish a common Caribbean Credit Bureau and harmonize legislation.<sup>36</sup> Furthermore through the experience gained by operating and hosting seminars throughout the region, the Caribbean Credit Bureau was able to alert companies about a trend that was developing where individuals would travel to several islands accumulating debt and defrauding many financial institutions. However not only was the problem detected but a solution was implemented with the skip trace feature on the WIRE database used by the company and the subscribers across the region.

The integrated skip tracing service assists subscribers in locating debtors that may have moved and are therefore hard to locate. Credit officers of other subscribers, associated bailiffs and debt collectors all provide indirect assistance in locating the skipped debtor by requesting and providing updated residence and employment information on any person listed as a skipped debtor. This information is then passed on to the subscriber that is trying to locate the debtor.

Why would a company which has pioneered this effort in the region, has proven expertise in the area, assisted many financial institutions be overlooked, ignored and denied access

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<sup>33</sup> (2007, February 12) Bureau at work on uniform credit rating

<sup>34</sup> 2008

<sup>35</sup> 2010

<sup>36</sup> Government of St. Lucia. Caribbean Bankers Receive Training in Advance Credit Analysis Retrieved December 6 2012 from: (<http://www.stlucia.gov.lc/press-release/caribbean-bankers-recieve-training-advance-credit-analysis>)

to funding, intended to assist and develop local companies and more specifically a credit bureau program? Why has such funding been channel into Multinational Corporation like TransUnion?

## **Subsidization**

Subsidies can be described as financial contributions or benefits conferred by a government to a domestic firm or industry to achieve some economic or social objective. However subsidies can be considered as an unfair trade practice as it does not only distort trade but also provide an unfair competitive advantage to the subsidize companies and industries.<sup>37</sup>

Once again the mining industry provides a useful demonstration of a possible circumstance where the Canadian International Development Agency may have subsidized certain companies so that they can seek to expand in Latin American countries. In a debate in the Canadian House of Common, Stephen Brown expressed that the *“the mining industry officials have defended these partnerships (with Barrick Gold, Rio Tinto) as being essential for Canadian competitiveness, which to me flags the fact that it's a form of indirect subsidy to Canadian mining companies if they are saying they can't compete without this kind of support.”*<sup>38</sup> The companies have contended that they lack the expertise and therefore they need CIDA to facilitate their partnership with various non-governmental organizations. However as Brown noted when private companies lack expertise they simply hire it. They recruit or source consultants to better assist them and for a multinational corporation this should not be too difficult a task to do. Therefore this is not a satisfactory justification for CIDA's rooted involvement and assistance to these companies. Although the Minister of International Cooperation at that time Beverly Oda, would have stated to the Ottawa Citizen that *“in no way are public funds being used to increase the profitability (of these companies)”* the allocations of funds were not approved through the competitive process and there has been little disclosure of the circumstances and contents of the agreement reached in these partnerships. However as noted by Brown, Minister Oda would have already admitted that she makes no distinction between Canadian commercial and development objectives.<sup>39</sup>

It can be said that similarly, subsidization occurred under the global credit bureau program of the IFC which is also supported by the Canadian International Development

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<sup>37</sup> Schaffer, R. Agusti, F & Earle, B. (2008) International Business Law and Its Environment (7<sup>th</sup> ed) Mason, Ohio South Western Cengage Learning

<sup>38</sup> HC Deb 7 May 2012,

<sup>39</sup> Canadian HC Deb 7 May 2012,

Agency. Although it may not fulfill the technical definition of a subsidy in the case of the IFC as the funds are not directly sourced from a particular government, apart from this slight technicality the arrangement entered into by these organizations has a close resemblance to the concept of subsidization.

IFC, with its motto creating opportunity where it is most needed, would have made an equity investment of US\$ 400 000 for 25% of TransUnion Central America a subsidiary of TransUnion LLC one of the three key credit bureaus in North America controlling 49% of the market with a presence in 32 countries.

<b>Project number</b>	10658
<b>Project name</b>	Trans Union Central America
<b>Country</b>	Central America Region
<b>Sector</b>	Finance & Insurance
<b>Department</b>	Global Financial Markets Group
<b>Company name</b>	Trans Union Central America
<b>Environmental category</b>	C
<b>Date SPI disclosed</b>	May 8, 2002
<b>Projected board date</b>	June 25, 2002
<b>Status</b>	Completed
<b>Previous Events</b>	Invested: December 4, 2002 Signed: October 16, 2002 Approved: July 20, 2002
<b>Project sponsor and major shareholders of project company</b>	
Trans Union Central America (TUCA) is a credit bureau company operating in the Central American region. Its major shareholders are SFI Corporation, a Costa Rican credit bureau and factoring company (51%), and T U, LLC, one of the three key credit bureau operators in North America (49%).	
<b>Total project cost and proposed IFC investment</b>	
The total project cost is estimated at US\$800,000. IFC will be making an equity investment of US\$400,000, for no more than 25% of TUCA.	
<b>Location of project and description of site</b>	
Incorporated in Panama, TUCA is designed to provide the region's lenders with credit information pertaining to both individuals and businesses. TUCA is currently operating in Costa Rica, Guatemala, El Salvador and Honduras and intends to begin operations in Nicaragua and Panama.	
<b>Description of company and purpose of project</b>	
The project's prime objective is to foster the development of Central America's nascent credit	

The investment was made to support and finance the expansion of TransUnion through the establishment of subsidiaries in Central America.<sup>40</sup> Is this really an example of the IFC creating an opportunity where it is needed most? Does a multinational company really need funding to expand into a new territory from an international agency such as the IFC whose mandate is to alleviate poverty and to assist developing countries? It seems more like if they are developing the company not the country. However one might argue that there was not a credit bureau in program in Central America and therefore there was a need to assist a foreign entity to 'foster the development of the nascent credit information system' as expressed on the IFC website.<sup>41</sup> However this was not the case in the Caribbean

<sup>40</sup> International Finance Corporation, (2005) Summary of Project Information. Retrieved November 20 2012 from(<http://www.ifc.org/ifcext/spiwebsite1.nsf/ProjectDisplay/SPI10658>)

<sup>41</sup> International Finance Corporation, (2005) Summary of Project Information. Retrieved November 20 2012 from(<http://www.ifc.org/ifcext/spiwebsite1.nsf/ProjectDisplay/SPI10658>)

region and the effect of such subsidization or funding as the IFC might prefer, has decimated the presence of regional or local credit agencies in the Caribbean market. Imagine how would a small local or regional entity compete not only with the resources of a multinational company but also the added contributions or sponsorship of the International Finance Corporation and CIDA? The company would be forced to either enter into joint venture or takeover by the foreign entity or quietly await its destruction. Once again I ask the question whom are they really helping and whose development has been advanced.

### The Trinidad Experience

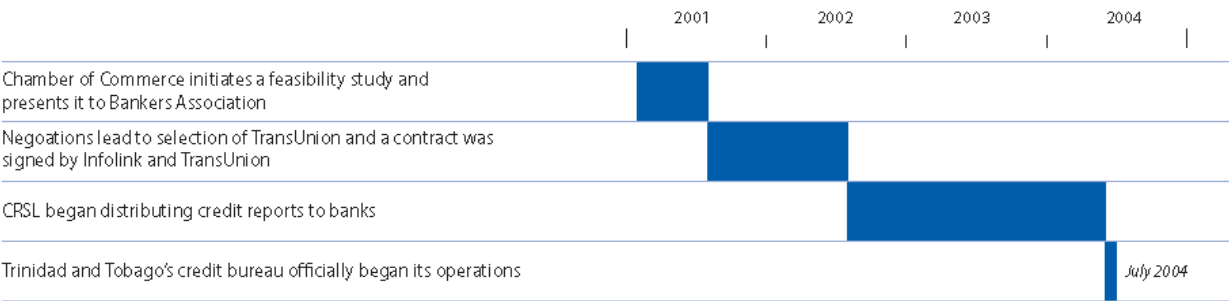
CCBL had discussions with Infolink to work with them to establish credit bureau operations in T&T. We shared our legal opinion and plans with Mr. Ronald Harford and his team. After submitting our proposal, we thought that we had a good chance of a joint venture, but eventually learned that TransUnion was the one that they were leaning closer to.

From the time that TransUnion and Infolink agreed to their joint venture, we had difficulty making the development progress that we expected. Our lack of banking sector data was an issue that we had been working on, and shared legal opinions and best practices with the banking sector and had been making good progress until TransUnion and Infolink started their operations. In every island that we were developing we encountered some of the banks that were shareholders of TransUnion, including ScotiaBank, RBTT (RBC now) and subsidiaries of Republic Bank. As they are the main suppliers of consumer credit, they have largest databases as well as the greatest need and ability to pay for credit bureau services. This combination has severely hampered our progress and has been a serious restriction to our growth and development in the Trinidad market. Our significant development was hampered at the same time that TransUnion teamed up with the T&T banks and the funding and assistance provided to TUCA by the IFC for the regional expansion through Credit Reporting Services Limited (CRSL).

2002. That same year, TransUnion and Infolink set up Credit Reporting Services Limited (CRSL). CRSL began distributing credit reports to banks in mid 2004. In July 2004, Trinidad and Tobago's credit bureau officially began its operations. For the first time, consumers could retrieve and interpret the contents of their own credit histories. Consumers could even initiate corrections where necessary—although these corrections are not guaranteed by law.

FIGURE 1  
**Timeline of credit reform in Trinidad and Tobago**

Source: Doing Business database.



Given the aforementioned we sought clarification from the IFC, Maria Pincetich, Credit Bureau Advisor IFC - Latin America and the Caribbean she eluded to the fact that the IFC had disinvested their TransUnion interest. Upon asking the IFC to provide me the disinvestment disclosure information number in Nov 2009, the World Bank directors changed its policy to provide such information to the public. Is this an act by the IFC to support unfair competition? Is it right for TransUnion to receive Technical Assistance and constant promotion from the World Bank Group, while the only indigenous credit bureau in the region, who has done so much development work over the years, CCBL, is unable to receive any assistance or support from the IFC?



## AIP's Implementation Plan

AIP will go into effect on **January 1, 2012** for all regions and will not be implemented retroactively on IFC's portfolio of projects. From its effective start date, the policy will be applied to all investment and client-facing Advisory Services projects as follows:

- For Investments with project concepts approved on or after January 1, 2012,
- For Advisory Services with project implementation plans approved after January 1, 2012.

**The policy, approved by the Board of Executive Directors in November 2009,**

Project documents prepared by IFC before January 1, 2012, or delivered to IFC pursuant to agreements entered into before January 1, 2012, will continue to be subject to the disclosure policy in effect at the time of the agreement.

For investment projects, the implementation of the results disclosure component of the policy will be piloted in the Latin America and Caribbean (LAC) Region starting in January 2012 and will be phased in by region over a two-year period from the effective date of the policy. The regions to follow LAC will be South Asia, East Asia, Eastern Europe, and then all remaining regions. Lessons learned from the LAC pilot will be used to inform the implementation of the results disclosure component across the other IFC regions.

Is it a coincidence that the board approved new disclosure rules after we asked for disinvestment disclosure info in Nov 2009, and that pilot and first implementation in LAC region?????

For advisory services projects with external clients, the results disclosure component of the policy will be implemented across all regions starting

## Unfair Competition - Subsidization

As aforementioned, the officials have defended partnerships with multinational companies as being essential for Canadian competitiveness. Thus in this situation it appears as though the expansion made by these companies in these territories would not have been economical in the absence of such a subsidy and consequently if it was not economical and the companies may not have been able to maintain a profit without such assistance or subsidization would this not be considered as a level of unfair competition for companies which do not have the luxury of being afford such assistance or subsidization. In a situation where there is no domestic producer or no competitor the facilitation of the expansion through subsidies to develop the industry may actually be beneficial for the country. However in this instance where there is indeed a domestic competitor such subsidies provide an unjust comparative advantage to one, resulting in potential and actual harm to the operation of the competitor. Even the United States, in the 1980, would have expressed concerned with regards to the subsidies and policies the Canadian government would have been implementing especially as it related to the automotive industry. If the US, a forceful

competitor in any market, recognize the impact that such subsidies would have had on their industry and was alarmed, why aren't we<sup>42</sup>?

## **Direct Foreign Investment**

Individuals may seek to avoid the use of the term subsidization to describe the activities they are engaging in and the support of their Canadian executing agencies expansion into emerging markets and takeover of companies within those markets and may prefer to define it as direct foreign investment which would be highlighted as being mutually beneficial to the multinational firms and host countries.

FDI is often viewed as being advantageous for national economies as it can result in the overall development of a sector. It is recognized that such investment can be very beneficial to an industry with the provision of technological improvements and improve productivity. However with these benefits many drawbacks may be faced as FDI often replaces domestic producers and results in the speedy exit of the domestic producer or supplier in the industry to which the new multinational corporation is entering.<sup>43</sup>

The service sector and more specifically banking sector in the region provides a good example of the displacement of domestic companies as a result of foreign direct investments being made. This is the sector which was the main sources of Canada's outward foreign direct investment and dates back to the early twentieth century. As early as 1903, Royal Bank has been acquiring many domestic banking companies within the Latin America and Caribbean region. In 1903 it acquired Banco Oriente de Santiago de Cuba, 1912 The Bank of British Honduras, 1925 it acquired the Bank of Central and South America and after divesting its ownership of Royal Bank of Trinidad and Tobago (RBTT) earlier, it later reacquired the company in 2008. Scotiabank, formerly Bank of Nova Scotia has also been sweeping across the region collecting as many domestic banks as it can. In the 1990's it acquired banks in Argentina, Mexico Chile and the Caribbean and is now operating in 27 countries in the Caribbean and Central and South America<sup>44</sup>. This has been the general trend of Canadian banking enterprises in the region. With the 'investment being made in the multinational credit bureaus, it is feared that the regional entities may or are already facing a similar fate. Once again the question of whose development is being advanced is raised.

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<sup>42</sup> P, Wonnacott. (1987) United and Canada: The Quest for Free Trade Library of Congress

<sup>43</sup> J, Jones & C, Wiren (2006) Foreign Direct Investment and the Regional Economy England: Ashgate Publishing Ltd

<sup>44</sup> S, Randal. (2010) Canada, the Caribbean and Latin America: Trade, Investment and Political Challenges



## Solution – Unfair Competition

Under the Cariforum-EC Economic Partnerships Agreement (EPA) certain provision and rules have been developed to ensure especially as it relates to the tourism industry, that large firms would be not be permitted to operate in an anti-competitive manner to protect the interest of the small firms in the Caribbean. Thus, there is a legally binding obligation under Article 111. Furthermore with regards to telecommunication sector there are specific practices prohibited due to their anti-competitive nature such as cross-subsidization and using information obtained from competitors with anti-competitive results. Due to the increasing presence and interest of multinational credit agencies in the region with the sponsorship of CIDA and the IFC there will be a level of unfair competition which has already hampered the progress of existing regional credit bureaux. Consequently to circumvent demise of the innovative regional companies there is a need for provisions to be examined and implemented in the various agreement that the region's governments are making especially in relation to our financial sector and specifically for the credit agencies entering our emerging markets.

We speak about trade liberalization and free markets but its subsidization of this magnitude in coherence with these general principles. The WTO supervises the liberalization of markets through the General Agreement on Trade in Services (GATS) which provides the regulatory framework governing international trade as in relates to services. The organization recognizes that subsidies can distort trade flows if they give an artificial competitive advantage to exporters or import-competing industries. This is a provision with the GATS which deals with subsidies; however this provision is a negotiating mandate and not a set of rules.<sup>45</sup> It simply requires that members conduct a negotiation if there is a belief that a subsidy may have had a distorting effect on trade in services and information of subsidies should be disclosed. Nothing has been done to reform this basic commitment and provide adequate rules relating to subsidies. *It has been noted that in light of the impossibility to compete on a level playing field with subsidized companies from developed countries, it would have been unwise for developing countries to bind market access commitments in sectors which are heavily subsidize.*<sup>46</sup> Subsidies can be applied in a discriminatory manner and therefore if international trade is to be based on liberalized and

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<sup>45</sup> World Trade Organization. (2006). Subsidies, Trade and the WTO.

<sup>46</sup> Poretti, P (2009). The Regulations of subsidies within the General Agreement of Trade in Services. Kluwer Law International

free trade concept with fair competition then it is essential that some rules and regulations be implemented to ensure this. In the absence of such regulations nothing can be done.

### **Jamaica Example**

Foreign credit bureaus have already reached the Caribbean region. On March 7 2012 Creditinfo Jamaica (CIJ) was the first company to be approved for a licence to operate a credit agency service in Jamaica. Creditinfo Jamaica is the result of a 'joint venture' between the Creditinfo Group Gmhf of Iceland, the base company and a local company called Coalesce Credit Solutions Ltd., which owns 20% of CIJ. Although some would have pushed the idea that the provision of such services would be a novelty to Jamaica, this is however not the case as Creditinfo Jamaica was not the first Credit Bureau in Jamaica.

The Caribbean based company Neal and Massy has obtained a license as well, their operations in Jamaica will be done under a joint venture with the global company CRIF NM Credit Assure Limited which would hold a 49% share in the Jamaican company.<sup>47</sup> As highlighted in the Jamaica Gleaner<sup>48</sup> the IFC, has reported that they have been approached by a number of companies overseas which are also interested in offering credit reporting services here. So there is still the possibility of other competitors in the market. Additionally, it is important to note that in recent times these credit agencies have often engaged in partnerships with other credit agencies in developing markets and thus the early presence of one company may result in the presence of another credit agency that may enter upon a joint venture with them later. For example TransUnion would have already entered into a partnership with CRIF in Russia under the TransUnion CRIF Decision Solutions LLC and in Croatia.

### **Market Access WTO Services**

Market access does have some wonderful benefits for developing states for services that are able to successfully make use of the reduction of barriers agreement under the WTO agreement.

It recognizes the four basic modes in which services can be supplied;

1. cross border supply not requiring the physical movement of the supplier or consumer,

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<sup>47</sup> Collinder, A (2012 May 04) New Credit Bureau has 10-year development plan. Jamaican Gleaner

<sup>48</sup> Roach, A (2010 December 08) Credit Reporting company patiently awaits Gov't green light. Jamaican Gleaner. Retrieved from <http://www.jamaicaobserver.com/business/Credit-reporting-company-patiently-awaits-Gov-t-green-light> 8216540

2. movement of the consumer to the country of the supplier,
3. services sold in the territory of a member by a foreign entity that have established a commercial presence and
4. the provision of services requiring the temporary movement of natural persons.

The services offered by a credit agency or bureau may fall under the third category or mode. Under Article XVI of the GATS there is the general commitment for members to accord like services and service suppliers of any other Member treatment no less favourable than that provided for under the terms, limitations and conditions agreed and specified in its Schedule. However unlike the General Agreement on Tariffs and Trade the General Agreement on Trade in Services is very flexible and allows states to implement many variables. Thus members have a wide discretion in determining which services would be governed by the provision relating to market access and the measures to be implemented to allow market access. Fortunately Jamaica in the Schedule of Specific Commitments has allowed market access to data processing and data based services which a credit agency or bureau may easily fall under. However entrance into the market is qualified for a company under the third mode of supply which is seeking a commercial presence to firstly registration their instruments of incorporation with the Registrar of Companies in Jamaica and secondly further registration and licensing requirements. Additionally the fifth protocol to the GATS which was entered into force in 1999 and would have negated the specific commitments would not apply as Jamaica has not yet accepted the protocol<sup>49</sup>.

It is recognized that barriers that affect trade in service differs vastly from those that affect trade in goods. This is mainly due to the invisible character of trade in services. Thus is instead of tariffs and quotas services may be subject to a plethora of domestic regulations which may seriously impede trade in services.<sup>50</sup> In an attempt to combat this Article VI: 1 requires that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner where specific commitments are made. Furthermore Article VI:4 outlines that with a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements do not constitute unnecessary barriers to trade in services, the Council for

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<sup>49</sup> World Trade Organization (2003) Status of acceptance of the fifth protocol to the General Agreement on Trade in Services .Retrieved December 5, 2012  
([http://www.wto.org/english/tratop\\_e/serv\\_e/finance\\_e/finance\\_status\\_5prot\\_e.htm](http://www.wto.org/english/tratop_e/serv_e/finance_e/finance_status_5prot_e.htm))

<sup>50</sup>Wouters, J & Coppens, D. (2008) GATS and Domestic Regulations: Balancing the Right to Regulate and Trade Liberalization. In K Alexander & M Andenaes (Ed.) The World Trade Organization and Trade in Services (207) Martinus Nijhoff Publishers

Trade in Services shall, through appropriate bodies it may establish, develop any necessary disciplines. Such disciplines shall aim to ensure that such requirements are, *inter alia*:

- (a) based on objective and transparent criteria, such as competence and the ability to supply the service;
- (b) not more burdensome than necessary to ensure the quality of the service;
- (c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

Thus although the GATS recognizes in its preamble that respect should be given to national policies and objectives and therefore has the right to apply domestic regulations these however in the interest of fair trade and the liberalization of markets would be subject to Article VI:4. Hence entry taxes and entry licences, output taxes and profit taxes may hinder the entrance of companies into the market.

Jamaica in March 2010 passed the Credit Reporting Act of Jamaica and Credit Reporting regulations which were developed with the assistance of the IFC. Under the legislations there is a need to fulfill certain requirement to apply and be granted a licence. There is a prescribed application fee of \$25 000, the need for the company to be incorporated, a licence fee of \$100 000, the proof of a startup capital of \$100 000 US and insurance requirements. Furthermore there is the requirement to pay 100 for every 1000 credit inquiries up to a maximum of \$5 million etc may limit a company's ability to enter into the market and thus can have a harsher effect on market access than quotas or quantitative restrictions. These regulations can be viewed as a direct barrier to the trade in services of regional companies.

Under the Treaty of Chaguaramas Member states would have made further commitments to encourage, develop and facilitate competitive micro and small economic enterprises through policy initiatives and programs and a restriction on regulations and standards being implemented as barriers to trade or frustrate the free movement of goods and services<sup>51</sup>. Under the Treaty there is the overall recognition of the need to further support entrepreneurial companies and to provide technical assistance and allow for greater access to trade and technology information networks. Emphasis is placed on trade facilitation of member of the community through the implementation of a regime to allow the free movement of goods and services within the CSME<sup>52</sup> under fair competition. Thus not only is Jamaica through their regulations act contrary to WTO principles but also the general objectives made under the Treaty of Chaguaramas.

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<sup>51</sup> Article 79 Treaty of Chaguaramas

<sup>52</sup> Article 79 Treaty of Chaguaramas

However some individuals with their ethnocentric beliefs may prefer the presence of a foreign entity establishing credit bureaus in the region due to the fact that they equate a foreign company to a better company. However is this really the case?

The Chicago based company TransUnion has been promoted as the leading global company that consumers trust, providing a range of financial products and services with cutting edge technology to combat fraud and to thereby ensure the protection consumer information. However TransUnion has been involved in some scandals in North America where it was established and has been proven to have engaged in some disreputable behavior. In the 2001 case of *TransUnion Corporation v Federal Trade Commission*<sup>53</sup> TransUnion was found guilty of illegally selling credit reports to target marketers companies and organization. In other words not only was TransUnion selling their credit report and the private financial information about consumer's credit, names, addresses, social security numbers, accounts status and payments history etc that they collect from other financial institutions that subscribed to them but they also fraudulently sold this information to marketers that would then use this information to solicit consumers at home and offer them goods and services.

Fortunately, the United States had already implemented the Fair Credit Reporting Act of 1970 which mitigated against such circumstances and imposed obligations on such agencies to protect not only the accuracy but also the privacy of credit information. As the sale of consumer reports violated the Act the necessary legal action was brought against TransUnion and they were prohibited from engaging in such activity. Similarly, the Atlanta-based Equifax Information Services LLC faced complaints lodged by the Federal Trade Commission for improperly selling the credit reports between 2008 to 2010.<sup>54</sup>

## **Conflict of Interest**

CIDA in 2000 founded CIDA City Campus based in Johannesburg primarily offering a Bachelor of Business Administration. There are many donors and partners with this campus; one of which is TransUnion. The CIDA empowerment trust is a 10 % shareholder in TransUnion Credit Bureau since 2006. This partnership was mainly financed by TransUnion. These partnerships were implemented all in the name of education which gives the premises that it is indeed assisting with the development of a country and to help alleviate poverty to the education of others to elevate them in society. Moreover many

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<sup>53</sup> 245 F 3d 809 US Court of Appeals District of Columbia Circuit April 13 2001

<sup>54</sup> Mc Clatchy, L (2012, October 10) Equifax settles charges of improperly selling consumer data. Miami Herald

graduates of the Campus found jobs with TransUnion and a Google search with the names of TransUnion, City Campus would illustrate that. However could this be a strategy initiated by the two companies? TransUnion has a lot to gain from a partnership with CIDA which has spearheaded the development of credit agencies across the world. Such a partnership can ensure that TransUnion is at the forefront and has the right away to develop their credit agencies in the emerging and developing markets that CIDA is providing assistance to. More specifically towards their partnership with the Campus, the school is indeed providing a valuable labour pool to which TransUnion can easily extract individuals to continue the development of company.

### **Regulation needed**

Barbados Bankers Association is considering implementing a credit reporting Code of Conduct. The IFC provided the Association with a sample code of conduct which could be used as the basis for the development of a Barbados code of conduct.<sup>55</sup> There is such a need to for regulatory oversight on credit reporting agencies due to the central role they play in the business sector and the interaction that they have not only with the various financial institutions that rely heavily on the information provided by them but also landlords, retailers, utilities and telecommunication companies. Regulations should ensure that the credit information is transparent and accurate. Additionally, provisions should ensure that there is an element of consumer protection. At the very basis of the operation of a credit bureau is the exchange of personal information and therefore financial privacy and consumer protection should be at the forefront of any regulatory framework employed<sup>56</sup>. Ultimately there has to be a balance between consumer and commercial interests. However one should take heed on the mining example.

CIDA in conjunction with its executing agencies have headed certain 'improvement' to the regulatory framework in the mining industries in Honduras and Colombia. However Stephen Brown indicated that the adjustments made favoured the Canadian mining industry and the rate of royalties going to the recipient countries decreased and therefore acted against the interest of the people in developing countries<sup>57</sup>. As noted by Jennifer Moore *"when Canada start meddling in the development of other countries' mining codes*

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<sup>55</sup> International Finance Corporation (2012, June) Caribbean Panorama. IFC Advisory Services in Latin America and the Caribbean, *Volume X*

<sup>56</sup> This is recognized under Article 184 of the Treaty of Chaguaramas

<sup>57</sup> Canadian HC Deb 7 May 2012,

*under the banner of Corporate Social Responsibility, it starts to lose all genuine meaning and look like simple economically driven foreign invention.<sup>58</sup>*"

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<sup>58</sup> Moore, J. (2012) Canada's Subsidies to the Mining Industries Don't Stop at Aid: Political Support Betrays Government Claims of Corporate Social Responsibility