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**EVALUATION OF THE
CARIBBEAN LAW INSTITUTE PROJECT**

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TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY	1
II.	INTRODUCTION	4
III.	STATEMENT OF WORK	6
IV.	SUSTAINABILITY	24
V.	CONCLUSIONS	28
VI.	RECOMMENDATIONS	29
VII.	SUMMARY	31

APPENDIX 1
CONTRACTUAL SERVICES AGREEMENT (A)

APPENDIX 2
CONTRACTUAL SERVICES AGREEMENT (B)

APPENDIX 3
LOGICAL FRAMEWORK

APPENDIX 4
PRELIMINARY BUDGET PROPOSAL

APPENDIX 5
LIST OF PERSONS INTERVIEWED BY EVALUATORS

APPENDIX 6
LIST OF DOCUMENTS CONSULTED BY EVALUATORS

APPENDIX 7
PROJECT SCOPE OF WORK

I. EXECUTIVE SUMMARY

Pursuant to a contract between the United States Agency for International Development and Checchi and Company Consulting, Inc. of 1730 Rhode Island Avenue, Washington D.C. 20036, (Contract #PDC-0085-I-00-9060-00, Delivery Order #30, dated May 15, 1991), a team of evaluators comprising of Professor Don Wallace, Georgetown University Professor of Law, and Roy K. Anderson, Attorney at Law undertook a mid-term evaluation of the Caribbean Law Institute (CLI). The CLI is a USAID funded project, (Project #538-0165) which is being implemented under a Cooperative Agreement between Florida State University (FSU) and the USAID Regional Development Office of the Caribbean (RDO/C) dated August 1, 1988.

The purpose of this mid-term evaluation of the CLI Project is, in the words of the Scope of Work, to assess its "progress in meeting the goals and purposes of the project, and to ascertain the level of commitment of the beneficiary countries to implementing CLI proposed law reform in the region.

The Caribbean Law Institute was formed in 1988 as a joint project between the University of the West Indies (UWI) and Florida State University (FSU) to promote law reform in the Commonwealth Caribbean, especially in the areas of trade, commerce and investment. Funded by the United States Agency for International Development, (USAID), CLI is governed by a six member board of directors, with an Executive Director located at FSU in Tallahassee, and a Deputy Executive Director located at UWI, Barbados.

CLI also has a Projects Selection Committee, reporters for each project, ("a reporter is responsible for producing draft legislation to be reviewed by an Advisory Committee"), advisory committees and the Fellows of the Institute. The Fellows include the sixteen (16) Attorneys General of the Caribbean nations served by CLI, the principals of both the Norman Manley and Sir Hugh Wooding Law Schools, the legal advisors to CARICOM and the Organization of Eastern Caribbean States, (OECS), two (2) attorneys in private practice and a representative of the Caribbean private sector, in the person of the Executive Director of the Caribbean Association of Industry and Commerce (CAIC).

The evaluators followed the method of evaluation indicated by the Scope of Work, namely:

- i) extensive interviews in the Caribbean and Florida with lawyers and others;
- ii) examination of relevant documents provided by USAID, Regional Development Office/Caribbean and CLI;
- iii) extensive discussions between the evaluators resulting in the consensus reflected in this report;
- iv) review of the extensive comments of RDO/C and other interested parties on the draft final report submitted for comments by evaluators.

Our findings are reflected in the changed assumptions of our proposed new Logical Framework. The evidence for these findings comes from the numerous interviews, as well as attendance at one CLI Board Meeting, and a reading of the documents to which we have applied our professional judgement.

Briefly, our conclusions are:

- i) It is too early to make a substantive evaluation of CLI's work because it has not yet produced much final product;
- ii) CLI requires some major reforms of its structure and management.

As for observations about its design and implementation, we believe the design to be somewhat flawed as we explain in our report, and again because of this it is too early to make mature observations about implementation although we do make tentative observations.

Again, briefly, our recommendations include:

- i) CLI should hire permanent draftsmen for its staff; it seems clear, from all the discussions with the members of the legal community, both in government and outside, that there is chronic shortage of experienced draftsmen which is a serious handicap to CLI's efforts to produce draft legislation, in a form and manner reasonably amenable to adaptation and adoption by the countries which are involved in CLI.
- ii) The position of the Executive Director must be discharged in a different manner than currently; the physical presence of the Executive Director within the region, would enhance the management structure and capabilities of the CLI. It would also be a positive response to the sensitivities of those in the region who feel that control of a Caribbean institution, should be seen to be in the Caribbean. This would further, eliminate the geographical bifurcation of the management function, which could only strengthen the management team at the point at which CLI delivers most of its services.
- iii) CLI must be given a more independent status and its board reconstituted. While there is no doubt CLI should have an important link with the UWI Faculty of Law, the evaluators believe that it must preserve its independence of the University. The reconstitution of the Board of Directors to embrace and reflect a wider community of interests than is apparent with a Board made up entirely of academics, can only improve the responsiveness of the CLI to the problems of commercial, trade and investment law, as perceived by other groups including the private sector. The ingenious institution of the Fellows, may reinforce, but cannot substitute

for a reconstituted Board. These factors together, will considerably reduce an inherent risk that CLI could be perceived to be a research arm of the UWI Faculty of Law, rather than as an independent institution charting its own agenda.

- iv) The roles of UWI and FSU vis a vis CLI, should be substantially altered in the first case, and radically altered in the second; CLI, as suggested in (iii) above, must have a more symbiotic rather than a dependent relationship with UWI, which will allow it to have greater flexibility to deal with its peculiar problems. CLI, according to this view, bears a relationship to the UWI, in function, if not in origin, more akin to the Caribbean Development Bank, or the CARICOM Secretariat, than the Institute for International Relations (IIR) or the Centre For Management Development (CMD).

As far as the relationship with FSU is concerned, there appears to be a feeling even among some UWI academics, that the commitment of FSU to CLI, beyond its interest in funding, was limited. Certainly, the extent of the contribution of FSU per se to the work of CLI, (a contribution which is not inconsequential), does not appear to warrant the extent to which FSU partakes in the funding for CLI. A radical change in the relationship of FSU to CLI is warranted.

- v) the resultant budget of the restructured CLI should be financed on a self-sustaining basis by a Trust administering a Trust Fund partially funded by unspent USAID grant funds; and in this regard,
 - (a) the new CLI's budget should be redrawn to be more cost effective; (See preliminary proposal at Appendix 4 of Report).
 - (b) Efforts should be advanced to develop additional sources of financing and, if possible, revenue generating activities.
 - (c) With respect to future financing, the possibility of establishing an independent trust with a portion of the USAID funds already obligated to the project, should be pursued.
- vi) FSU, UWI and USAID should convene a meeting of Caribbean Attorneys General and other prospective donor agencies or countries to pursue achieving of (v) above.

II. INTRODUCTION

Pursuant to a contract between the United States Agency for International Development, and Checchi and Company Consulting, Inc. of 1730 Rhode Island Avenue, Washington D.C. 20036, (Contract # PDC-0085-I-00-9060-00, Delivery Order #30, dated May 15, 1991), a team of evaluators comprising of Professor Donald Wallace, Georgetown University Professor of Law, and Roy K. Anderson, Attorney at Law, undertook a mid-term evaluation of the Caribbean Law Institute (CLI). The CLI is a USAID funded project, (Project # 538-0165) which is being implemented under a Cooperative Agreement between Florida State University (FSU) and the USAID Regional Development Office of the Caribbean (RDO/C) dated August 1, 1988.

The role of the evaluators in this mid-term evaluation of the CLI Project is, in the words of the Scope of Work, to assess CLI and its "progress in meeting the goals and purposes of the project, and to ascertain the level of commitment of the beneficiary countries to implementing CLI proposed law reform in the region". The Institute is a regional initiative "designed to provide assistance to the Commonwealth Caribbean countries in law reform, law harmonization and clarification, especially in the areas of trade, commerce and investment". The project is also expected "to provide for technical assistance and training to beneficiary countries to support their law reform efforts".

A. Methodology

The evaluators have faithfully followed the method of evaluation indicated by the Scope of Work, namely:

- i) extensive interviews in the Caribbean and Florida with lawyers and others;
- ii) examination of relevant documents provided by USAID,RDO/C and CLI;
- iii) extensive discussions between the evaluators resulting in the consensus reflected in this report; and
- iv) review of extensive comments of RDO/C and other interested parties, on the draft final report submitted for comments by the evaluators.

B. List of Participating Countries

Anguilla	Grenada, Carriacou & Petit Martinique
Antigua and Barbuda	Jamaica
Bahamas	Montserrat
Barbados	St. Lucia
Belize	St. Kitts and Nevis
British Virgin Islands	St. Vincent & the Grenadines
Cayman Islands	Trinidad & Tobago
Commonwealth of Dominica	Turks and Caicos Islands

C. Context

The countries covered by the work of the CLI include eleven (11) independent and five (5) dependent territories of the English -speaking Caribbean, most of whom are members of the Caribbean Economic Community (CARICOM) and/or the sub-regional Grouping of the Organization of Eastern Caribbean States (OECS). Although in political terms there may be a distinction between the independent and non-independent states, they share much more in common in terms of their history, economies, culture and legal systems. All the countries may properly be described as developing economies .

Their legal systems are all based on the English Common Law system (with the limited exception of the island nation of St. Lucia whose civil law is based on French Law). In almost all cases, the commercial laws of the countries in question are outdated, with the Companies Acts in the region dating back to the late 19th or early 20th century. The countries also share common traditions in terms of the training of the legal profession, most of whom have been trained in England, the West Indies or Canada. In many cases, the members of the profession not only share this common training, but because of this, are often known to each other personally and/or by reputation.

The question may well be asked why it is necessary to have a CLI to promote the modernization and harmonization of the laws of the region, when Article 42 of the 1973 Treaty of Chaguaramas establishing the Caribbean Community already mandates harmonization of several of the laws in question, and also requires that the areas listed be kept under review. In the case of the OECS, while the Treaty establishing the Organization does not mandate harmonization of the laws in those terms, the tenor of the agreements would suggest that that would be a natural outcome of the coming together of the countries in question.

In fact, however, neither the CARICOM nor the OECS has been able to move significantly in the direction of either modernization or harmonization. For example, the development of draft Companies legislation for CARICOM which had been mandated in 1971, was not

complete until 1979, eight years later. Further, none of the CARICOM countries had adopted the legislation up to 1988 when CLI commenced operations. It is in this context that the CLI, fashioned from a linkage between the School of Law of Florida State University (FSU), and Faculty of Law of the University of the West Indies, (UWI) has undertaken the responsibility for assisting and promoting the modernization and harmonization of the laws of the English speaking Commonwealth Caribbean.

D. Purpose

The responsibility of the consultants is, as stated above, to perform a mid-term evaluation of the CLI in order to assess "the progress that CLI is making in achieving the goals and purpose of the Project and to ascertain the level of commitment of the beneficiary countries to implementing CLI proposed law reform in the region". Specifically, the consultants were required to perform the assessment in the nine (9) areas delineated as the "Statement of Work" in the Scope of Work forming part of the Contract referred to above. The field visits of the evaluators took place during the period from May 16, to June 12, 1991, and entailed visits to

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|--------------------------------|---------------|
| 1) The FSU Campus, Tallahassee | 2) Jamaica |
| 3) Barbados | 4) St. Kitts |
| 5) Antigua | 6) Dominica |
| 7) St. Vincent | 8) Grenada |
| 9) Trinidad | 10) St. Lucia |
| 11) Barbados | |

III. STATEMENT OF WORK

- 1. The commitment of the beneficiary countries to law reform efforts in the region and the effectiveness of CLI in establishing itself as a major contributor to such countries' efforts.**

The consultants feel that it is difficult to say categorically that the countries of the region which are part of the project have a total commitment to the idea of law reform. We can say that among the persons with whom we met during the course of the evaluation, we found no evidence of any lack of support for the idea of law reform. Certainly all the Attorneys General and other government officials professed a commitment to the principle of law reform. The non-governmental persons also seemed to appreciate the urgency of the need for modernizing and harmonizing the laws, particularly the commercial laws, of the region, in the context of providing a "level legal playing field" for business, both from within and outside of the Caribbean region. Nevertheless, it remains difficult to quantify the extent of the commitment in any meaningful way, as there is no single litmus test for

determining this. Without in any way giving in to cynicism, it should be noted that verbal commitment is easy to provide. However, we feel that the level of commitment which we heard articulated, was in fact reflective of a genuine feeling of support for the ideas of law reform and harmonization.

The team is also to assess "the effectiveness of CLI establishing itself as a major contributor to such countries' efforts" in the area of law reform. It is probably useful to define the term "effectiveness" as used here, and in several contexts in the succeeding aspects of the scope of work. Without more, it implies the successful production of a desired result, a conclusion which, given CLI's limited time of operation so far, it is not possible to reach. We understand the term here to be used more to mean measuring CLI's helpfulness to the countries' efforts.

The team is persuaded that the CLI has great potential to be effective in this area, but as of this point in time, it is too early to say that it is effective. We do sense however, that the "effectiveness" of CLI in this regard is uneven as it applies throughout the region. This may very well be inevitable given the relative needs of the countries. Thus, for example, it is felt that the greater urgency of the need of the OECS countries, as opposed to the relatively lesser need of the More Developed Countries (MDCs) for assistance in the modernization and harmonization process, reflects itself in the reality or the perception of greater helpfulness in this regard in the OECS.

It should however be noted that even in the MDCs, (Jamaica, Trinidad and Tobago and Barbados,) CLI's potential for effectiveness is demonstrated, albeit in less compelling ways. Thus for example, we learned that the setting up of a Companies Act Committee in Jamaica, was a direct result of the impetus created by the CLI determination to pursue modernization of the Companies legislation in the region. Even in the case of Barbados which had earlier instituted a new Companies Act in 1982, we were advised by the drafter of the CLI Bill, that that Act itself now needs significant revision. It may be safely assumed that this realization only came about because of the ferment created by the CLI initiative.

It should also be pointed out that the development of effectiveness is a two-way street. CLI's potential and ultimate effectiveness is also dependent upon the extent to which the countries themselves are able to make use of CLI's contribution. The more ready they are to do this, the more effective can be CLI's contribution. On the other hand, if the individual country is unable to make use of CLI's help, if for example it has no capabilities to produce an adaptation for its own circumstances, CLI's effectiveness is reduced.

At this time therefore, it is impossible to say that CLI has established itself as a "major contributor" to the efforts of the countries towards law reform. But it has undoubtedly been a factor in this effort, and the team is convinced that it does have the potential to be a major contributor. Indeed, one interviewee, a former Prime Minister of his country, volunteered that CLI, in his view, represented the most cost effective, and perhaps the only way to achieve the reform and harmonization of the laws of the region at present.

2. Effectiveness of the liaison established between CLI, the Fellows of the Institute and the CLI Advisory Committees, CARICOM, OECS and other regional organizations with an interest in law reform.

Firstly, the consultants would note that the persons or agencies referred to above, are not a homogenous group. In fact, both the Fellows and the Advisory Committees are internal to CLI, and indeed, are discussed in CLI brochures as being parts of the organization. It is difficult therefore to speak of liaising with those "organs" as if they were outside the body of CLI. It is still possible to say however, that in so far as the Fellows are to be seen as a natural extension of CLI's efforts to promote law reform, the individuals are performing an invaluable role, as supporters of the law reform role of CLI within their individual jurisdictions. The Advisory Committees are in a similar position to the Fellows, and in some cases may provide an even more direct ally for CLI as it seeks to establish effective liaisons with those institutions with an interest in law reform.

Secondly, however, the Consultants would acknowledge a fair level of effectiveness in establishing a liaison with both CARICOM and the OECS. The legal advisors of both bodies attend CLI board meetings. They also sit on the Project Selection Committee, and as such directly influence the selection of topics on which CLI will work. In addition, both have been directly involved with specific sub-projects, including Arbitration, Maritime Law, Companies Law and the OECS Treaties Project, as co-reporter or draftsman. The liaison with the OECS appears to be particularly close, and those Attorneys General of the OECS to whom we spoke, were generous in their praise for and support of the CLI. In spite of the apparent effectiveness of the liaisons, however, the consultants would nevertheless urge CLI to try to provide more substantive and tangible demonstration that the liaisons established with these organizations are more institutional and structural, as we believe them to be, and not personal.

Thirdly, while there was some evidence that CLI had established an effective liaison with the Institute of Chartered Accountants of the Caribbean, and to some extent with Caribbean Association of Industry and Commerce (CAIC) and the Organization of Commonwealth Caribbean Bar Associations (OCCBA), it was not at all clear, that the CLI had established an effective liaison with some other regional institutions such as the Caribbean Development Bank (CDB). The question of link with the Bar Associations is developed further below.

The team also felt that CLI needs to make a definitive effort to align itself with Law Reform Commissions in countries in which they exist, and to seek to encourage their creation where they do not, as these commissions represent a natural constituency of CLI. As far as we were able to tell, Law Reform Commissions exist in Barbados, and in Trinidad and Tobago where it is presently functus officio. In the Commonwealth of Dominica, plans are well advanced to establish such a Commission, while in Jamaica, it is proposed to use the present Law Reform Division of the Ministry of Justice, as the nucleus of a

Commission. St. Lucia is also to set up a Law Reform/Revision Commission shortly. These Commissions have responsibility for the reform and modernization of domestic laws and as such are the natural partners of the CLI in terms of its regional focus. A close relationship with these commissions could only facilitate the work of CLI as well as the commissions.

3. Impact of CLI Journal, Caribbean Law and Business, on the law reform effort. In this regard, the consultants are to consider what, if any, further initiatives can be taken by CLI to ensure that the journal remains an effective conduit for legal development in the Caribbean.

The journal, Caribbean Law and Business, has clearly made a positive impact upon the region, and through it, CLI has achieved a level of recognition that may have been impossible otherwise. The case summaries are widely acclaimed as being of the greatest utility, especially in the absence of up-to-date regional law reports in the area of Commercial Law.

Every effort must be made to widen the distribution and readership of the Caribbean Law and Business through direct appeals to individual practitioners and firms, as well as through promotion at Bar Association meetings. Further, it is recommended that attempts be made to encourage some kind of working relationship with the more academically oriented West Indian Law Journal (produced at the Norman Manley Law School in Jamaica), and the Trinidad and Tobago magazine, "The Lawyer". It may be possible to expand CLI's influence through these contacts.

Finally, every effort should be made to bring on stream as early as possible, the proposed Commercial Law Reporter. Every attorney to whom we put the question, lamented the absence of timely reports especially in the commercial field, and said that they would heartily welcome such a publication. This would have a further effect of increasing awareness of CLI and its role as a regional catalyst in law reform and harmonization.

4. The Implementation progress of the various sub-projects funded by CLI since its inception.

The progress realized on the sub-projects is one of the measures of the success of the CLI to date. We here define sub-projects as the substantive projects of model law development (specifically excluding Caribbean Law and Business and the Commercial Law Reporter which we discuss elsewhere). We do not include in this section the Commercial Law Survey, which is also discussed elsewhere, inasmuch as it is the backdrop to and the source of the sub-projects.

Generally, progress on the sub-projects has been considerably slower than projected, for example, in the CLI Proposal 1990-1992, dated June 12, 1990 ("Proposal"). It is conceivable that the relatively slow progress on earlier sub-projects made it possible for CLI to contemplate taking on additional sub-projects while awaiting completion of work on earlier ones. We also assume, that there is a direct causative relationship between the slow progress on the individual sub-projects and the relatively slow expenditure of funds available under the Co-operative Agreement.

The following is the present status of sub-projects chosen for implementation by CLI.

a. Company Law

This appears to be the most advanced of the sub-projects. We were informed that work began in May 1989. In the Proposal, it was projected that the final draft would be ready for submission to the Fellows in September 1990, and that technical assistance would be made available to the various jurisdictions from October 1990, to assist with adaptation to local circumstances. At one Board meeting, it was suggested that CLI might commence work on some subsidiary legislation and administrative details. With the draft bill still being finalized, it is not surprising that this has not yet been done.

The team spoke with Sir Denys Williams, the draftsman of the Companies legislation on June 7, and he advised that he envisaged completing work on the bill shortly. (The Dep. Exec. Dir., on June 20, confirmed that the work had been completed and that Sir Denys is presently reviewing the corrections made pursuant to his instructions to ensure that it contains all amendments. Having had final discussions with the Chair Person of the Trinidad & Tobago Company Law Committee, Sir Denys is also in the final stages of re-numbering sections of a separate Company Law draft for Trinidad and Tobago, where there is some urgency to have the legislation introduced in parliament). In addition, CLI has scheduled a number of workshops in the various territories, commencing on July 15, to explain and publicize the CLI draft.

b. Arbitration Law

Here, the team was told that this sub-project began in Sept. '88. According to a 1988 proposal submitted to AID, the draft bill was to have been prepared between January and March 1989, and the Fellows were to debate the final draft in May 1989. In relation to the schedule implicit in the above, two comments are in order:

- (a) the time allowed for drafting of the bills appears to be very unrealistic;
- (b) the time allowed to get the draft to the Fellows was also unrealistic.

By the time the 1990 proposal was done, the relevant dates were June 30, 1990 for submission by Reporter to Advisory Committee; September 5-9, 1990, presentation for consideration by Fellows; Nov. 1990, amended draft circulated to A-Gs, lawyers, members of the commercial community and others in region.

We understand that draft arbitration bills, one domestic and one international, may now be ready for submission to the Fellows.

c. OECS Treaties Project

This particular sub-project is said to be complete. It should be noted that this does not fit neatly within the defined topics (laws relating to commerce, trade and investment) that CLI had undertaken. It was a response to the urgent need felt by the OECS countries, to determine the extent of their various treaty obligations. Although for all practical purposes the work is complete, implementing legislation which was also to have been prepared, according to the Co-operative Agreement referred to above, has not yet been done.

d. Shipping Legislation

This sub-project started around December 1988, with the Draft CARICOM Bill, which had been in existence for several years. The Proposal indicated that the revised law would be submitted to the Fellows in September 1990. This has still not yet been done, and correspondence which was examined, suggests that while there was substantial agreement between the two reporters, they had yet to sign off on a final document.

Projects chosen as a result of Commercial Law Survey Phase 1

i. Banking

We believe that this sub-project began in September 1990. We spoke to the reporter for this sub-project, and she expressed some reservations as to the appropriateness of developing model legislation in this area, given the differences inherent in the different levels of development in the region, and the consequent divergence in interests. She has commenced work on a survey of the Banking Laws, which will also highlight particular problem areas. There also appears to be some indecision as to the proper scope of this work, in terms of whether it should encompass the wider law relating to banking including the relationship between the bank and its customers, or should be more limited to the issue of public regulation of banks.

In relation to this aspect, i.e. public regulation of banks, some of the countries, notably the OECS countries, Barbados and Trinidad and Tobago, have already begun to do their own work. On the other hand, aspects such as depositor insurance may require

additional study. A movement towards a common currency for CARICOM, (a suggestion which we understand will be made by the West Indian Commission) would also clearly benefit from additional study in this area. In our view, there is some lack of precision in the scope of this sub-project, and it needs further definition.

ii. Insurance Law

We were told that this sub-project began in August or September 1990. We met with the reporter who is undertaking the study, and were advised that that study should be completed by September 1991.

The meeting with this particular reporter, provided one instance in which the quantum of fees was impliedly blamed for slippages in the dates for completion of work undertaken to be done.

iii. Consumer Protection

We believe that this sub-project began in November 1990 with the first meeting of the Advisory Committee. According to the 1990/2 Proposal, the first progress report was to have been submitted by February 1991, draft legislation to be prepared by July 15, '91, and Fellows to discuss the draft by September '91. This represents a very ambitious timetable, and in our view is overly optimistic. It should be pointed out moreover, that the services agreement with the reporter for this project, (See Appendix 1) did not require that draft legislation be produced. The reporter was required to produce an "initial status report" and "a comparative study of consumer protection law reform initiatives". Given the extensiveness of the Services Agreement for this topic, it seems clear that the time frame was unrealistic.

iv. Bankruptcy

This was not one of the topics on which a status report was prepared as part of the Commercial Law Survey, but the commencement of a project in this area was endorsed by the CLI Fellows after the OECS Legal Advisor drew the Fellows' attention to the need for general update on laws relating to insolvency in the Caribbean.

Here again we have what appears to be an example of a very unrealistic schedule. The proposal suggests that draft bankruptcy legislation would be ready for consideration in the Advisory Committee by June 15, '91, and be ready for submission to the Fellows by August/September '91. The team's discussion with the reporter and researcher on this sub-project indicated that it is hoped to complete the study by the end of June 1991. Appendix 2, which is the relevant section of the Services Agreement with the reporter, makes no reference to the preparation of draft legislation. It refers instead to preparation on an "initial status report" and "a comparative study of bankruptcy law reform initiatives",

with an ultimate responsibility to "supervise assembly of copies of materials which are to be handed over to the draftsman with the final report".

v. Environment Law

This sub-project which received substantial encouragement from USAID, has up to this point involved only the preparation of a comparative survey of environmental laws in the Caribbean. The proposal indicated that it would commence in May 1990, and be complete by the end of October 1990. In fact the report was delivered to CLI in late May 1991. Its completion was apparently hindered by the failure of the researcher in St. Lucia to produce the information needed on that state's environmental laws. It should be noted en passant, that the provision of model legislation is not within the contemplation of CLI at this point in time.

Pursuant to the institution of a Phase 2 of the Commercial Law Survey, a few additional sub-projects were suggested for consideration by CLI.

<u>PROJECT</u>	<u>COMMENCEMENT</u>	<u>STATUS</u>
Double Taxation Treaties	April 91) Economist preparing) report according to) guidelines discussed) with CLI Dep. ED, team) of economists and Dr.) Ken Rattray. Reports of) economists should have) been submitted to CLI) and lawyer/reporters) should have commenced work) 4/91. Final reports due 9-10/91.
Regional Stock Exchange		
CARICOM Enterprise Regime		

The CLI has now also undertaken to commence studies in relation to the above subjects. These studies are in the nature of "status reports", similar to those which comprised the first step of the initial Commercial Law Survey.

The synopsis given above confirms the view of at least some of the interviewees in the course of the survey, that the CLI is often not delivering according to the time table it has itself set. Given the need to demonstrate measurable successes, it is critical that CLI be seen to perform on time, at least as far as such performance is within its control.

Reasons for delay in completion of projects

A seemingly consistent theme of the summary of sub-projects given above, is the failure to meet deadlines which had been set either when the relevant proposal was being developed, or the sub-project was decided upon. The evaluators are unable to give any single definitive reason for the delays. However, there are a number of factors which could have had some negative effect on the ability to finalize the sub-projects within the determined time frames.

As is noted in the discussion of the Insurance sub-project, one suggestion was that the compensation offered to the reporters on the advisory committees was not adequate to encourage the private practitioner to give the project priority over his day to day practice. According to this view, most practitioners are willing to work on projects at less than their normal charging rates, in the interest of assisting in the work of the Institute and making a contribution to the development of a Caribbean jurisprudence. Some of these persons however, feel that the CLI did not give sufficient importance to the work which they were being asked to undertake. An increase in the compensation would, they say, encourage the practitioners to give a higher priority to these sub-projects. This view was also shared by the co-ordinator of the Environmental Law Survey.

A second possible reason is the extensiveness of the sub-projects themselves. Given the nature of the advisory committees, often made up of persons from several different countries, it is logistically very difficult to gather the information from numerous sources, have it discussed by the advisory committees, and then have a draft prepared in the relatively tight timeframes contemplated, and covering all the topics included in the contractual services agreements with the reporters. The contractual services agreement for the consumer protection legislation is a good example of the extensiveness of the work to be done within the sub-projects.

Linked with the question of the extensiveness of the subject matter of each sub-project, and the logistical difficulties attendant thereon, is the fact that before the sub-project can be regarded as completed, the Fellows have to sign off on it. The fact is that there have only been two meetings of the Fellows, with a third scheduled to be held in September 1991. As such, there has been only limited opportunity for the projects to be reviewed by the Fellows.

One important reason which perhaps helps to account for the delays, is the fact that in most cases the reporter is not the draftsman of the legislation. This is shown in the

contractual services agreements set out in Appendices 1 and 2. There, it is clear that the reporters are only to produce the "initial status report", after the survey of the legislation. On the other hand, it appears that the time tables were prepared on the basis of the reporters being the draftsman. It is now clear from all that we heard, that it is unlikely that the reporter will be the draftsman. In this regard, the Company Law, Arbitration Law and Shipping Law sub-projects would appear to be exceptional. This has very direct implications for the CLI's ability to produce the drafts within time frames which are generally very ambitious from the outset.

The synopsis also shows that the normal routing of a particular sub-project, from choice by the projects selection committee, through selection of the reporter, selection of and referral to a project advisory committee, reporting back to the Fellows, and final adoption by that group is often not adhered to. Additionally, the CLI's definition of commencement of a sub-project is not always consistent. Sometimes it refers to the formation of an advisory committee, while at other times it refers to some other step. While it is not obvious that this failure has any impact upon or implications for the timeliness of the completion of any particular project, it does suggest some inconsistency in governance, which may be a reflection of the problems of management.

5. The effectiveness of the technical assistance and training in the overall project.

The consultants had difficulty identifying specific "training" initiatives, leaving aside the question of the workshops or seminars, (held in connection with the Commercial Law survey, or a particular sub-project e.g. Companies Law) which have been held throughout the region. As far as we were able to ascertain, these workshops had been very well received, but it is our view that the reference to training here, is not to these workshops. On the other hand, we would understand technical assistance to include the assistance given to the OECS secretariat in the Treaties Project, which was from all appearances welcome and appropriate.

The only other example of technical assistance which we were able to identify, was the assistance being given to Trinidad in the development of its company law. From the tenor of our interviews with the head of the Trinidad and Tobago Company Law Committee, and the Reporter for the CLI Company Law Committee, this help has been quite extensive and appreciated.

It must be always be borne in mind, that the CLI has been in existence for less than three years. It is going to be difficult if not impossible to pronounce upon the effectiveness of CLI in areas such as these, where the opportunities for showing capabilities have as yet been limited. There can be no question however, that in light of the answers which we received to the questions posed in our interviews, significant potential exists for CLI to

undertake an active role in both Training and Technical Assistance, and the CLI should undoubtedly be an effective provider of these services.

Evidence of this is to be found, for example, in the fact that in all the countries visited, the team was told that the countries could use help from CLI. The help contemplated included adapting proposed model legislation, identifying precedents for solutions to problems, and help with research. This theme was consistently heard even in the larger territories such as Jamaica, where both the Chief Parliamentary Counsel and the Director of the Law Reform Division stated that they would welcome such assistance.

Having said that, we must emphasize that CLI has not to date provided much in the way of technical assistance. The Co-operative Agreement notes: "In some cases, the work of CLI may reveal that laws need not be harmonized or revised to be conducive to commercial activity and investment, but rather need to be made more readily ascertainable to the business community, investors, financiers, and even the legal community itself. In such cases, the scope of CLI's mandate will be sufficiently broad to promote ascertainability through technical assistance and training activities." None of the projects so far undertaken has been based on a recognition of this kind. Still it would be disingenuous to believe that CLI has not in fact had occasion to provide any T.A. and Training, and therefore we must ask the question whether it may be missing opportunities. On the other hand, the team acknowledges that it found that, in every case in which help has been sought from CLI (e.g. getting legislation of other Commonwealth countries or other information), it has been provided very expeditiously, for which most persons credit the Deputy Executive Director.

6. The effectiveness of the liaison created by CLI, between the legal and business communities and the efforts of those constituencies in collaborating on the law reform effort in the areas of trade, commerce and investment.

It should first be pointed out that there is an ambiguity in the statement of this task. It is not clear whether the "liaison" referred to is that between CLI on the one hand, and the legal and business communities on the other, or the liaison between the legal community on the one hand, and the business community on the other, this latter liaison "created by CLI". For the purposes of this discussion, we have assumed the former is intended.

Such evidence as we were able to elicit from our interviewees which bears on this point, indicates that CLI has indeed begun to establish an effective liaison between itself and the legal and business community of the region. This may be demonstrated by the links which have been established with the president of the Institute of Chartered Accountants of the Caribbean, the chief executive of CAIC and other members of its staff, and several senior practitioners who serve CLI on its various committees.

One should note some qualification in terms of the weight which can be given to this. The consultants saw three "pure businessmen", one in Jamaica and two others in the Eastern Caribbean. It is fair to say that one EC businessman was very knowledgeable about CLI, (he was also on one of the advisory committees) while the other knew little about it. It is worth noting however, that the Jamaican businessman had got such knowledge as he had, from a business associate who was a lawyer involved with CLI. This is encouraging because it demonstrates to some extent, that awareness of CLI's existence and role, is now being promoted not just by CLI itself, but second-hand through those with whom it has established links.

A further qualification to be noted, relates to the depth of the nascent relationship being discussed. To the extent that one is able to judge, it does not appear that the CLI has yet really permeated the consciousness of the various Bar Associations. Most of the lawyers to whom we spoke felt that there was no significant awareness of the CLI and its role among their colleagues at the Bar. This is not necessarily the fault of the CLI, but in fact probably reflects the dormant state of the respective Bar Associations, a fact which itself presents a challenge to CLI's efforts. Could CLI for example, help to stimulate these Bar Associations, by contacting graduates of the two law schools and offering reduced subscriptions for the Caribbean Law and Business Journal if linked with taking out membership in the domestic Bar Association? This would help the CLI in establishing its own image, while at the same time encouraging interest in local Bar Associations.

The holding of workshops/seminars which have all been praised as outstanding in terms of the quality of the participation that they attract from all constituencies, also demonstrates that CLI is on the right track in pursuing the strengthening of this liaison.

But one must again be cognizant of the relatively brief period of CLI's existence. The net result of all this would appear to support a conclusion that while CLI has begun to develop an effective liaison, it has as yet only scratched the surface of this necessary lode of possibilities. It has made an effective beginning, but it is too soon to say that it has established an effective liaison with these groups in the area of law reform in commerce, trade and investment.

7. The continued validity of the assumptions contained in the logical framework underlying the CLI project. Under this heading, the consultants will also be required to assess the adequacy of the present project design for achieving the stated objectives of the project, including the existing management arrangements.

It is the view of the consultants that this particular task and the succeeding one dealt with below, represent the heart of the evaluation exercise. We have proceeded on the basis that the logical framework referred to in the scope of work, is that which is attached as

Annex 1 to the CLI 1990-92 Proposal. A revised draft Logical Framework is attached to this evaluation as Appendix 3.

In so far as the assumptions set out in the existing logical framework are concerned, the consultants' views relating to the six (6) assumptions are as follows:

Assumption 1

"Caribbean countries will have a sustained interest in improving the investment and commercial climate through harmonization and enactment of laws."

Such views as were heard in the course of our survey, would seem to support the first assumption: with respect to the continuing interest which Caribbean countries will have in pursuing modernization and harmonization of laws, in the hope this will improve the investment and commercial climate.

We refer to our views in (1) above.

Assumption 2

"Representatives of the private sectors will assume an advocacy role for proposed legal reforms"

Again, it appears that this would be correct, although we do not have enough definitive answers to agree with absolute certainty. Nothing we heard suggests any unwillingness to do so.

Assumption 3

"Necessary drafting skills will be available to adapt model laws to specific countries"

It has become abundantly clear that there are not sufficient drafting skills within the individual countries, to allow them to adapt all the model laws for their own use, with any degree of rapidity. Indeed, the dearth of drafting skills in most countries was identified as one of the most definitive findings of the evaluation team. Specific recommendations will be made with respect to how CLI might be able to help to alleviate this problem.

Assumption 4

"Political climate will remain favorable for modernization and harmonization of laws"

The emerging consensus both within the sub-region, particularly the Windward Group, and the wider CARICOM, for a more regional approach to problem solving, and the recognition that the development of economic and trading blocs is the way of the future, would augur well for the proposition that the climate for "modernization and harmonization" will remain favorable. Again, this should be qualified by the fact that the evaluators did not pursue any enquiry into the political climates of the countries, nor were we expected to. It is public knowledge that the Windwards have decided to begin their own integration by a date in 1992, that a constituent assembly has been established and has begun to meet, and referenda are to be held in each of the states on the integration question.

Assumption 5

"Income generation activities are successful"

Whether or not income generating activities are going to be successful is unsure, but is in our opinion a marginal consideration, as none of the activities would realistically be expected to do more than cover their costs. No opinion is offered on the continuing validity of this assumption, in large part because no significant income generation activities have been suggested in the course of our field visits.

Assumption 6

"Role of CLI validated by regional legal profession"

As far as this assumption is concerned, it would appear that at least to the extent of the present involvement of the legal profession in the Fellows and the Advisory Committees, the role of CLI has received an imprimatur of support. It would still be necessary to translate this narrow support, however deep, into a more broad-based support, before one would be prepared to say that the role of CLI has been "validated" by the profession.

Assess the adequacy of the present project design for achieving the stated objectives of the project including the existing management arrangements.

At the outset it is worth stating that the design of the project was shrewd and useful in structure, even if somewhat flawed. The establishment of a group of Fellows of the Institute, ensured that the representatives of governments with direct responsibility for law reform and harmonization, the Attorneys General, were co-opted into the service of the organization. In addition the use of advisory committees allowed access to members of the private bars and the private sector, and thus gave the CLI a direct link with this most important constituency.

The link between the two universities, one of which is a United States institution, may well have helped to imbue the project with additional credibility. This would arise from the fact that any modernization of the Caribbean commercial laws, can usefully pay due attention to the commercial laws of the United States, the region's largest trading and investment partner.

A CLI which has a role to modernize and harmonize the commercial laws of the region, must take account of the pre-eminence of the economic relationship between the United States and the region. There is therefore, without any doubt, a role for a meaningful connection with an eminent U.S. institution such as FSU.

Having said that however, the evaluators are concerned with certain features which would seem to be design defects. The composition of the Board appears to be unnecessarily restricted, consisting as it does of only academics from the two universities. It is our view that such a board would have difficulty in fulfilling the wider mandate of CLI, which is not

only to research but to help in developing draft model legislation, and work for its adoption in the respective countries.

It is felt that a board which was reconstituted to consist of more private sector businessmen and private practitioners, as well as public and even government officials would.

- (i) avoid the skepticism that is often attached to academics by businessmen, and
- (ii) be inherently more results oriented, and less likely to be perceived as inclined to support the pursuit of research for its own sake.

This view is particularly strongly held, since the skills required for the fulfilling of the project objectives including outreach to the community and fund-raising are unlikely to be found in a board made up as this one is.

The nature of the board's composition is possibly the reason why there appears to be some uncertainty as to the relative roles of the UWI Faculty of Law, and CLI. The Cooperative Agreement contemplates that the "UWI Faculty of Law is uniquely qualified to provide support to CLI..." We feel that there is a developing perception at UWI, that it is CLI which is to provide support to the faculty, for example by supporting research to be done in the faculty, a reversal of the pre-determined and proper roles. It should be noted in this regard, that a UWI "Proposal for the Reconstitution of the Caribbean Law Institute" presented in July 1990, suggested that the Institute "should be a special unit within the Faculty of Law", a position taken by UWI faculty in subsequent exchanges.

Finally, in so far as the Board is concerned, it is legitimate to ask whether the so-called problems of "institutionalization" and "Caribbeanization" would not already have been dealt with if the board members were not academics who might, not unreasonably, see themselves as protecting the interests of their respective schools, rather than advancing the interests of CLI, and through it, the law reform interests of the states of the region.

Another possible design defect relates to the assumption upon which the functional structure was built. It apparently was conceived that the reporters on the advisory committees would be the draftsmen of the model legislation. (See 1988 Grant Proposal) The fact is that this has not always proven to be a correct assumption, and it is probably at least partially responsible for the delays in the drafting of model legislation. The fact is that given the highly specialized treatment of the drafting process in the region, it will be less rather than more likely, that the reporter will also be the draftsman of the legislation.

The conclusion reached here as to the availability of draftsmen for developing draft legislation has implications for the cost of the project. While the evaluators have not made a dollars and cents comparison of the relative costs of having draftsmen on staff

as opposed to retaining them on an ad hoc basis, (indeed, it might be impossible to do this), it is reasonable to assume that by having them on board, it would be possible to generate each draft more cost effectively than having to contract out each individual project. It is clear that a major "cost" of the present unavailability, is the delay in producing the drafts in a timely manner. The presence of draftsmen on staff would therefore give the management of the CLI greater control over the allocation of the time of the draftsmen, and the priority which may be accorded to any particular draft. This is a factor which is potentially critical because as observed elsewhere in this report, the highly experienced draftsmen on whom CLI currently relies, are persons who have very busy schedules independent of CLI, with competing demands on their time.

Two other factors which are mentioned elsewhere in this report would also be impacted upon positively by having draftsmen on the staff. The feeling was expressed in some quarters, that the institute was not producing results as quickly as it might. At the same time, the fact that only two meetings of the Fellows have been convened, was said to be a result of not having had more, and more substantive, work to put before such meetings. Where the draftsmen are on staff, the CLI's ability to expedite the preparation of more drafts for the sub-projects, would speak to the concerns on timeliness. It would also enhance the CLI's capabilities for generating more work for, and consequently demanding more frequent meetings of, the Fellows, who must sign off on the drafts. Having the draftsmen on staff, would also enhance considerably, CLI's ability to render technical assistance on an individual basis to those countries which would wish to adapt and adopt, drafts produced by the CLI.

A most critical design feature of the project relates to the fact that the part-time Executive Director resides in Florida, while the full-time Deputy resides at Cave Hill. This is unsatisfactory because, quite apart from regional sensitivities which one may not properly ignore, (the perception that if the head is not in the region, then the organization is not of the region) a vacuum will exist in the leadership, even given the most industrious Deputy Executive Director.

The lack of the Executive Director's permanent physical presence in the region (a matter also commented upon adversely in the Mudge Report) denies the project of the considerable experience, talents and prestige of the current Executive Director at the Cave Hill Campus. At the same time, it seems clear, that the Faculty at Cave Hill is not prepared to accord to the Deputy the same deference that they do to the Executive Director. Thus, the Deputy Executive Director does not attend Faculty Board Meetings even in the absence of the Executive Director. The real question is whether the project can survive with this essentially geographically bifurcated management structure. It is our view that it cannot, a view which was also essentially reached in the previous report on the CLI.

It goes without saying that we believe that the proposal to have two (2) Executive Directors, would be not only more unrealistic, but more costly, and should not be

supported. This is a proposal which had surfaced at a meeting of the representatives of the two universities held in Miami, on December 5, 1990. The suggestion came from the FSU representatives, and appears to have received qualified support from the UWI representatives, at least to the extent that FSU was committed to be involved with CLI "at the intellectual level". Dean Kurtz had assured the evaluators in the course of our telephone interview, that FSU was indeed anxious to have this level of involvement. There does not appear to have been any further attempts to implement the suggestion.

In sum, we believe that the CLI as presently constituted lacks both a proper management structure and Board structure, and that this defect really represents an internal incoherence, quite independent of the relationship of CLI with the UWI. Neither the proposal to have two (2) Executive Directors, nor that to increase the number of Board members to eight (8), will therefore correct the perceived design defect in the management structure of the project. This latter suggestion to increase the size of the Board to eight, with the deans of the School of Law of FSU and the Faculty of Law at UWI being ex officio members, was made by the FSU dean in a letter of August 23, 1990. Again, this suggestion has not been adopted.

8. The effectiveness of the partnership formed by the cooperating universities, Florida State University and the University of the West Indies, and the efforts of the CLI Board of Directors in fully establishing and identifying CLI as a Caribbean-based institution.

As noted above, the CLI was shrewdly constructed in terms of its organic structure; the Fellows and the advisory committees. To the extent that the partnership provided a conduit through which significant AID flows could take place, and facilitates CLI's work, it may also have been effective. However, it is in the question of the respective roles of the two universities vis-a-vis the CLI, that the real effectiveness of the partnership is to be judged. Those roles cannot be sufficiently defined as FSU being the provider and administrator of the funds, and UWI being the spender of one-half of those funds.

Any analysis of the effectiveness of the partnership must therefore, in our view, be founded upon an appreciation of what CLI was set up to do, and be directed at achieving a redefinition of the roles of the two institutions.

In so far as the CLI board "establishing CLI as a Caribbean-based institution" is concerned, the evaluators regret that while there has been a lot of debate on the question, it does not appear that much has been done in concrete terms, apart from UWI's second proposal, a document entitled, "The constitutional structure of a UWI based Caribbean Law Institute Persona", presented to the CLI Board at a meeting in Miami on December 5, 1990. The questions of Caribbeanization and institutionalization have not been resolved. Indeed, it is instructive that at a meeting of the Board held February 25,

1991, the minutes reflect that, as far as agenda item "institutionalization" was concerned," it was agreed that the target date would be September 1, 1992, and that the Board would meet again at the earliest opportunity to continue discussions." Certainly no evidence exists that the Board has begun to come to terms with the question of the "ownership" of the project. The issue would seem to be: If the project is to be "fully established and identified as a Caribbean-based institution", isn't there by necessary implication, a responsibility to look to the future funding of the project? What efforts have been made to secure the long term sustainability of the project? Is it anticipated that USAID or some other donor agency will continue to godfather the CLI? As far as the team can tell, this has not been seriously explored with the kind of attention to concrete detail that these questions require.

The evaluators would not wish to be understood as saying that the issue has never been considered. But from the documents which were made available to us, we did not get the impression that concrete alternatives were being examined. For example, there is an inevitable link between the proposal for institutionalization of CLI in the Caribbean, and the need to develop alternative sources of long term funding. How this is to be approached, is not apparent beyond the expression that there will be need to secure funding from the private sector in the Caribbean and the United States. What would encourage a U. S. firm to make contributions to a Caribbean organization if these contribution were not deductible for tax purposes? What are the steps necessary to allow for a Caribbean-based CLI to have contributions to it accorded deductible status ?

It is true that there has been some discussion of the possibility of construction of a building to house the CLI, but this begs the question rather than answers it. The mechanics and the logistics of the various alternatives, demand greater urgency than is so far apparent.

We would have to conclude that the efforts of the CLI board have not been adequate in terms of this part of the statement of work. We would further suggest that the continuation of a scheme through which approximately 50% of the USAID Funds remains in Florida, is not conducive to a continuing effective partnership, nor to helping the resolution of the question of the long term viability of the project. A reconstituted Board must define the CLI in terms of its role as a catalyst and facilitator for law reform in the Caribbean, and then examine how the respective universities should help CLI in fulfilling that role.

In this regard, it is instructive to look at the list of functions to be undertaken by each university as set out in the draft minutes of the meeting of May 24, 1991, between the representatives of UWI and FSU. Both universities apparently have identical functions. Whatever the tasks in theory allocated between CLI Inc, and FSU on the one hand, and CLI and UWI, Cave Hill on the other, there can be no doubt that significantly more of the CLI's activities occur in the Caribbean. No publications have originated from FSU; FSU personnel involved with the project are few, though to be fair there are other U.S. persons who are involved only because of FSU. no conferences are organized in the United

States, except as a collateral event to the C/CAA Miami Conference on the Caribbean, and as far as we are able to tell, FSU has not given any technical assistance in furtherance of CLI's Caribbean imperative. "Technical assistance" is defined here to mean help from CLI originated persons, directly on a specific problem of a participating territory, not to a CLI activity or project per se. In short, this does not include service on an advisory committee.

If this is in fact so, then the questions which arise are as follows: Does an allocation of resources on a roughly equal basis between FSU and CLI at Cave Hill reflect accurately the relative contributions of FSU and UWI to CLI? Given that the preponderance of activities of CLI are executed in the Caribbean, expending less than half of the total resources to date made available, is the present regime by which half of the resources goes to FSU, a cost effective way to achieve the mandate of CLI? We fear that it would be difficult to answer either or both of these questions affirmatively.

IV. SUSTAINABILITY

This is a very important question which must be answered in considering the future of the partnership/relationship between FSU and UWI. Leaving aside the issue of the role for the present ED and FSU in the future of CLI, it is suggested that one would proceed with a "zero-based" or "bottom-up" approach. Start with nothing but a functional definition of the project, and then construct the CLI as it should be, as a fully Caribbean institution, and then allocate appropriate costs to such items of expenditure as are found to be necessary to fulfil the functions which have been decided upon. Fund flows must then be found to cover the expenditure, both capital and recurrent. The amount and source of such funds would need to be identified by a Board which was more attuned to the raising of finance than the current board would appear to be. In order to quantify this, it will be necessary to prepare a pro forma budget setting out the items needed. (See Appendix 4)

The evaluators would emphasize the fact that the draft budget at Appendix 4 is a very preliminary suggested budget. It does not for example include a provision for an evaluation of the sub-projects which CLI will undertake. A more definitive budget should be produced by the management of the CLI, using the assumptions implicit in this report, and recognizing that up to this point, the actual expenditure in CLI has been considerably less than the amount actually available under the earmark. Again, it is worth noting that at the February 1991 Board meeting referred to above, it was reported that "US \$516,314.00 of the fourth Congressional earmark of US \$1.5 million would be put in reserve for new projects. The rest would be allocated to CLI administration, which had only been funded to 1992 under the last CLI budget," a relationship between projects and administration of 1:2.

In our view, such an approach highlights the lack of any compelling need for a necessary FSU connection, (certainly anything like the present one) in terms of what that institution brings to a project defined in the functional manner set out on the first page of this evaluation. While we are satisfied that this is so, this does not mean that FSU or the present Executive Director does not have a significant role to play. The current Executive Director in his own right, and as a member of the Faculty of an U. S. Law School, has a key role to play. That issue is not dealt with here, but is addressed separately.

It should be noted parenthetically, that notwithstanding its regional nature, there is nothing which inherently ties CLI exclusively to the UWI. In fact, the overwhelming weight of opinion among all categories of persons interviewed, was that in a perfect world, an institute such as CLI should be an institution within the CARICOM regime. Nor is the fact that the UWI is chartered in each territory a dispositive factor in determining the best structure for CLI, and further concluding that it should be a part of the UWI. In fact, we are convinced that an independent or at least semi-autonomous CLI with the ability to call upon the UWI (and FSU) Faculty for assistance would probably serve the interests of the region better than one which is subordinate to the Law Faculty. Indeed, it may be wondered whether too close a connection with the UWI may not hamstring the institution. For example, if the salaries for staff are constrained by UWI salary scales, or staff has to be employed by UWI, it may well be impossible to get the "right kind" of persons to run the organization.

An independent or at least semi-autonomous CLI would be supported by a Trust Fund or Foundation set up with :

- (a) to the extent possible, unexpended USAID funds which are not committed between the present and the scheduled end of project:
- (b) Other donor funds from such agencies as IDB, CDB, or other bilateral donors;
- (c) Funds committed by Governments pursuant to a conference of the Attorneys General or Ministers of Justice and the donors;
- (d) funds contributed from the private sector of the region and the United States.

The Board of trustees for such an organization would have wide powers to co-opt other members, drawn from the wider Caribbean, in order to assure itself of the availability of the requisite skills in areas such as fund raising and public relations.

9. The effectiveness of the Commercial Law Survey as a tool in identifying constraints amenable to CLI intervention.

We have had some difficulty in ascertaining what this measure is supposed to mean. Certainly, it is not our view that the Commercial Law Survey was a tool used "in identifying constraints". Nor are we sure what, within the context that CLI is to operate, constraints are "amenable to CLI intervention".

The Commercial Law Survey appears to have been a useful tool in deciding upon some of the original projects. However, we note that others of the original projects did not come from the survey, and it is not at all clear that the latest projects have been decided upon as a result of a formal "2nd Phase".

10. The Position of the Executive Director

The question of what role the present Executive Director should have in some future incarnation of CLI is among the most difficult and complex of those facing the institution. We feel however, that the issue must be approached from the point of view of a project designer working on a clean sheet.

The present Executive Director brings to the project his prestige as a former Dean of the DePaul Law School, and a profoundly successful academic career. It is not irrelevant that he is also originally from the Caribbean, and has an innate sense of where the region wants to go. One may, in these circumstances, explore the possibility of having the present Executive Director serve the project as a Special Advisor and Board member, perhaps even Chairman, with Prof. D'Alemberte as Honorary Chairman. We would again however refer to the need to have a chief executive officer who is resident within the region. There are excellent reasons for considering the present Executive Director as being uniquely qualified to assume this leadership. In his personal capacity, Prof. Griffith might also be asked to construct and establish a course in U.S. legal systems for Caribbean law students at the UWI Cave Hill Campus. This would focus on areas of U.S. Law which may be relevant to commerce, trade and investment between the U.S. and the region.

Inherent in this proposal, is the fact that, as stated above, there is no indispensable role for FSU (qua FSU) in the work of CLI. Further, if the proposal to establish an autonomous trust fund is accepted, there will be not be any necessary role for FSU either. But there is a strong case that can be made for the continuing association with an American University with a genuine interest in the Caribbean, and an intellectual commitment to the CLI mandate. It may be noted parenthetically, that there was considerable skepticism on the part of the UWI Faculty, that this intellectual commitment on the part of FSU had been established. No one interviewed ever questioned the present Executive Director's personal and intellectual commitment to the project, and his West Indian heritage and U.S.

experience, gives him a unique perspective which is useful to this project. Every effort should therefore be made to maintain a key role for Professor Griffith in any continuation of CLI. Regrettably, we are unable to find any parallel imperatives in a relationship with FSU which is to continue on the same basis as at present, and would suggest that unless there were a substantial redefinition of the nature of that relationship, it might as well not exist.

En passant, it may be noted that one reason which had been advanced for the earlier FSU role, was its familiarity with USAID procedures and requirements, in so far as AID funds were concerned. The successful implementation of projects such as the Caribbean Justice Improvement Project (CJIP), makes it abundantly clear that the capability to administer USAID project procedures and requirements, are available in the region. Reasons for FSU's continuation involvement in the project should not therefore include this.

Building for CLI

There has been much discussion as to the desirability of construction of a building for CLI. It has been assumed that the UWI would provide the land for such a building. It is clear that such a facility would go some way to enhancing CLI's permanence as an institution, as it would have its own permanent home. It would also have the possibility of generating some income through the rental of its facilities, as well as then having the capabilities to deliver upon its assumed mandate to assist with continuing legal education in the region.

It will however be apparent to the reader, that the evaluators see the construction of a building as a matter of significantly less importance than the question of the settlement of the structure of the organization itself. If one assumes that this more pressing problem can be resolved, the possibility of the building would provide a very useful channel for recognizing the invaluable role that FSU played in helping to bring about the CLI.

V. CONCLUSIONS

In light of the findings arrived at by the evaluators, and which are implicit in the report above, the team considers the following to be valid conclusions based upon the available evidence:

1. The impetus for regional integration within the sub-group of the OECS, the wider CARICOM group and the even wider group represented by the countries participating in CLI provides a fertile context for the work of CLI. The countries recognize that the entire world is moving towards the development of blocs. Small nation states such as are involved in CLI cannot effectively exist on their own, and the harmonization of their economies and their laws is a sine qua non of this movement towards integration.
2. The countries are apparently committed to the reform and harmonization to which CLI's efforts are directed. However, this commitment at present is reflected only in the say so of the various Attorneys General and private businessmen with whom the team met.
3. There is as yet no conclusive evidence that the countries would be prepared to give tangible expression to their commitment by underwriting the cost of CLI.
4. CLI has the potential to be an important agent of law reform and harmonization within the Caribbean. Among those who have worked most closely with CLI, i.e. the Fellows and members of Advisory Committees, there is a strong view that CLI can fulfill the role for which it was designed. However, the evaluators feel that it is too early to accept that this is a totally valid conclusion. Given the shortcomings in structure and management which have been referred to in the report, it is our view that unless certain structural and management changes are made within CLI it will be difficult for it to achieve its undoubted potential.
5. If CLI is to respond to the Caribbean imperative that motivates it, it must become and be seen to become a Caribbean entity. Implicit in this is the recognition that the head of the entity and its management and direction must be within the Caribbean.
6. The need to respond in the manner set out in (5) above does not necessarily imply control of the institution by the University of the West Indies Faculty of Law. Rather, it requires an autonomous agency with the ability to draw upon the UWI, FSU, CARICOM, the OECS and others, the better to serve the interests of all the people of the region.
7. The Board of CLI as presently constituted has too narrow a focus with the preponderance of academics. The suggestion that the addition of the deans of the UWI Faculty of Law, and the School of Law at FSU would serve to broaden the board, is ill conceived and unhelpful. Both partners in CLI view the board as an academic board, although the UWI proposal of July 28, 1990 did suggest that "the two universities should

consider how and when membership of the Board might be extended to include persons other than members of the universities". Nor is the expressed concern that there is a need to keep the Board free from political influences necessarily compromised by a decision to widen the group from which it is drawn.

8. The view that the Fellows provide the real dynamic for CLI in its role to foster the modernization and harmonization of the commercial laws of the Commonwealth Caribbean, and that this makes the restructuring of the board unnecessary, is not a correct one. Especially at this point when the substantive administrative and constitutional issues still need to be determined, it is the Board which must give central leadership and direction. Without this leadership and direction, it is unlikely that the Fellows, disproportionately representative of governments within the group, will be able to provide the motivation which CLI needs.

9. The assumptions contained in the present Logical Framework are not necessarily all accurate. In particular, the assumption concerning the availability of drafting skills within the region has been demonstrated to be totally incorrect. It is our conclusion that this lack of drafting skills has the most direct and far reaching implications for CLI's ability to deliver on its mandate.

VI. RECOMMENDATIONS

The evaluators suggest the following recommendations with respect to CLI's future: 1.

1. CLI must be given a more independent status and its Board reconstituted. This will allow it to operate in a manner more directly responsive to the needs of the wider Caribbean community and in particular to the business community for which it is developing a legal context of operations.

2. It is recommended that the achievement of independent status might best be fostered through the establishment of a Trust administering a Trust Fund. If possible, this trust fund should be partially funded by unspent USAID grant funds, but should include also funds from regional governments, the private sector, and other donor agencies and donor countries. It is felt that the establishment of a trust fund or endowment for CLI would enhance CLI's prospects for long term financial viability. In order to pursue this possibility, consultations among USAID, FSU and Congressional staff will be required.

3. UWI, FSU and USAID should encourage the convening of the meeting of all prospective participants in such a Trust Fund to pursue the achievement of (2) above.

4. The roles of UWI and FSU vis a vis CLI need to be substantially altered in the first case and radically altered in the second.

5. The management structure of CLI must be reorganized so as to ensure that the Chief Executive Officer is based within the Caribbean. This is seen as a response not only to sensitivities in the region, but will eliminate the bifurcation of the present management functions.
6. The single most outstanding shortcoming which was acknowledged throughout the region was the lack of adequate drafting capabilities. This afflicted not only the smaller countries of the OECS, but just as acutely the MDCs. If CLI is to fulfill its role by delivering model legislation suitable for enactment by the individual countries, it must enhance its own drafting capabilities. Accordingly, we recommend that CLI bring on to its permanent staff a minimum of two draftsmen, who may be retirees. This will allow for a more expeditious development of model laws which emanate out of the reports provided by the Advisory Committees. It would also facilitate individual countries in their efforts to adapt such model legislation to their own needs.
7. CLI should devote some of its efforts to fostering the development of law commissions within individual countries. As part of this effort it needs to work even more closely with national and regional Bar Associations. It should aim at fostering the further strengthening of such Associations through, for example, offering of its publications at concessionary rates when subscriptions are taken out through membership of Bar Associations.
8. CLI should aim at developing its own research capabilities, and in particular seek to establish linkages into international databases in the field of law reform and modernization.
9. CLI should develop a comprehensive list of prospective legal consultants with full statements of their capabilities so as to ensure that the Institute has access to the widest range of skills in the various areas in which it is pursuing reform. In this regard, CLI must ensure that it pays its consultants fees which are commensurate with their abilities, and which reflect the value of their services.
10. CLI should develop the capabilities to respond to other perceived needs of the region and individual states. For example, the suggestion was made that CLI should have a role to play in the area of privatization, an important topic in the region and the Law relating to Cooperatives, the largest single source of funds for business development in smaller societies such as the Eastern Caribbean States.
11. CLI should make additional efforts to widen the public knowledge of its existence and functions, as this will assist in the creation and continued development of consensus so necessary in the development of laws intended to be generally adopted by the countries of the region. In this regard, there is a need to deepen the already considerable links which have been established with the CARICOM and OECS Secretariats.

VII. SUMMARY

The evaluators feel confident that the conclusions and recommendations which are set out herein are borne out by the evidence secured in the documents we examined and interviews we conducted, in the course of our field visits. We realize that in some respects, the core of our proposal for improving the CLI, may be perceived as somewhat radical. We do believe that the fundamental issue which has to be addressed however, is the long term sustainability of the CLI within a Caribbean context.

If one starts from that position as we believe it is right that we should, then it becomes obvious that one must examine the conceptual framework of the CLI against its functional objectives, and suggest one which we believe would have a better chance of success. It may not be an perfect solution, but given all that we have seen and heard, we feel that our recommendations represent an optimum solution. Undoubtedly, the implementation of the recommendations will require a great deal of discussion between all relevant parties. But given good faith all around, we are sure that a better CLI will emerge.

Finally, the evaluators would like to place on record our appreciation for the courtesies extended during the preparation of the report, by all with whom we came in contact.

APPENDIX 1

CONTRACTUAL SERVICES AGREEMENT (A)

APPENDIX 1

CONTRACTUAL SERVICES AGREEMENT (A)

1. The PAYEE is an independent contractor pursuant to the laws of Barbados and assumes full responsibility for completion of the services stipulated below:
Reporter to the CLI Consumer Protection Legislation Project. As a reporter the payee would be required to:

- i) prepare the initial status report on the law of the Commonwealth Caribbean (including Bermuda, Belize and Guyana) relating to consumer protection and present the report to the Advisory Committee. This status report should include references to existing legislation, any draft legislation of which the payee is aware, case law and secondary sources such as textbooks and articles on the subject if any have been written for the region or pertaining to the law of the region. The areas of law to be reported on are:

- Consumer credit and financial service transactions
- Consumer economic interest legislation
- Consumer protection under the Trinidad and Tobago legislation
- Consumer's right to information
- Consumer's right to obtain redress
- Fair Contract terms
- Food and drugs (including pharmaceuticals and Poison Act)
- Hire Purchase
- Insurance legislation (consumer protection aspects)
- Merchandise marks
- Misrepresentation
- Money lending legislation
- Pawnbrokers legislation
- Physical safety of consumers
- Price control
- Rates of interest
- Sale of goods
- Weights and measures;

- ii) prepare a comparative study of consumer protection law reform initiatives in other Commonwealth countries which would involve examining and reporting on case law, legislation and proposals made by law reform committees, etc. in these countries. The countries to which reference should be made include Canada, the U.K., Australia and New Zealand and if possible a number of smaller non-Caribbean Commonwealth jurisdictions such as Hong Kong;
- iii) guide Advisory Committee discussions of the reports at (i) and (ii) above;
- iv) make recommendations for Commonwealth Caribbean consumer protection law reform bearing in mind the discussions and recommendations of the Advisory Committee and responses to any questionnaire which is circulated in the Commonwealth Caribbean as part of the project;
- v) present a final report and supervise assembly of copies of materials which are to be handed over to the draftsman with the final report.

APPENDIX 2

CONTRACTUAL SERVICES AGREEMENT (B)

APPENDIX 2

CONTRACTUAL SERVICES AGREEMENT (B)

The Payee is an independent contractor pursuant to the laws of Barbados and assumes full responsibility for completion of the services stipulated below:

Reporter to the CLI Bankruptcy Law Reform Project. As a reporter the payee would be required to:

- i) prepare the initial status report on the law of the Commonwealth Caribbean (including Bermuda, Belize and Guyana) relating to bankruptcy and present the report to the Advisory Committee. This status report should include references to existing legislation, any draft legislation of which the payee is aware, case law and secondary sources such as textbooks and articles on the subject if any have been written for the region or pertaining to the law of the region;
- ii) prepare a comparative study of Bankruptcy law reform initiatives in other Commonwealth countries which involve examining and reporting on case law, legislation and proposals made by law reform committees etc., in those countries. The countries to which references should be made if possible include Canada, the U.K., Australia and New Zealand and a number of smaller non-Caribbean Commonwealth jurisdictions such as Hong Kong;
- iii) make recommendations for Commonwealth Caribbean bankruptcy law reform bearing in mind the discussions and recommendations of the Bankruptcy Law Advisory Committee;
- v) present a final project report and supervise assembly of copies of materials which are to be handed over to the draftsman with the final report.

APPENDIX 3
LOGICAL FRAMEWORK

APPENDIX 3

LOGICAL FRAMEWORK

Project Goal: To create and sustain a lawmaking capacity within the Commonwealth Caribbean, so as to enable it to modernize and harmonize its laws, especially those affecting commerce, trade and investment. An inevitable consequence would be to strengthen the legal system and the practicing legal profession in the Commonwealth Caribbean.

Purpose: To establish the Caribbean Law Institute as a viable means to achieve the project goal.

Objective: Build an institutional capacity in CLI:

- (1) To assist governments in policy formulation, and the related study and research needed to formulate laws; to do so by assembling skills within CLI and also promoting the development of such skills within the governments in their law reform commissions and similar entities.
- (2) To assemble within CLI a law drafting capacity, and to reinforce and assist the law drafting capacity in the individual governments; to assemble within CLI or in UWI enhanced research, library and database capacity, focussed on the Commonwealth and other relevant foreign jurisdictions, and to assist governments accordingly.
- (3) To carry out a number of other ancillary activities such as conducting conferences, seminars and workshops for the relevant legal and business constituencies, in order to involve and mobilize the policy priorities of governments and others to assist in the achievement of the project goal.
- (4) To develop a realistic strategy to make this activity self-sustaining and self-financing.

Important Assumptions

Inasmuch as CARICOM and the OECS Legal Unit have not pursued harmonization as rapidly as one would have expected, given that this is their charge; and inasmuch as many of the governments do not have law reform commissions or lack commissions that are active; the evaluators are convinced that CLI represents the best available and most realistic method for proceeding with the harmonization (and fostering ultimate enactment) of necessary laws, especially in the field of commerce, trade and investment, and that the governments will have a sustained interest in this.

The following further assumptions are also made:

That the political climate and the interests of the private sector are favorable;

That the necessary drafting and other relevant skills are not sufficiently available, and CLI will have to either provide these or otherwise eventually cultivate their existence;

That CLI will contribute to the strengthening of the regional legal profession including the Bar and other professional associations by involving established and upcoming legal talent in its work, ensuring the payment of adequate legal fees.

That CLI will have the institutional capability to handle the receipt, disbursement and administration of AID funds.

Inputs

Adequate AID funding available until the CLI is put on a self-sustaining basis. Naturally, it will take a considerable period of time before sufficient funding is available from all prospective sources to arrive at this point.

Verifiable Indicators

A realistic budget will be prepared, on a zero-base, which can be funded from the AID grant, assuming this will reach \$7.5 million, yet leaving sufficient funds to create a trust, which when added to by other donors and the Caribbean Governments, will create a self-sustaining fund, Assuming a reasonable rate of interest on this fund, the income would be used to pay for the core activities of the CLI. The trust would have been created and funded by December 31, 1992.

A new board, drawn from the appropriate constituencies, will be established by December 31, 1992.

CLI will hire two full-time draftsmen, whose services may be financed in some cases, by other sources such as UNDP or CFTC.

CLI will secure a sufficient library, research, database relationship with UWI to satisfy not only its work on model laws, but also reasonable requests from individual governments for assistance on laws on which they are already working, and which may in fact become topics of later models.

A series of contractual arrangements will have been worked out with regard to a building/office space on the UWI campus, a proper relationship with the library/research/database facility, and ensuring the autonomy of the CLI from the UWI Faculty of Law.

The management structure, including executive director and deputy executive director, will have been worked out in a form satisfactory to the trust and its board, AID et alios.

The relationship with FSU will have been phased out at the operational level though, to be sure, ad hoc contractual arrangements may be made with FSU.

Outputs

We will begin to see a well-managed program, producing a package of model laws, subsidiary legislation and administrative arrangements, some enactments and some consequent technical assistance.

The publications program will have been further rationalized.

APPENDIX 4
PRELIMINARY BUDGET PROPOSAL

APPENDIX 4

PRELIMINARY BUDGET PROPOSAL

The proposal for setting up of an autonomous CLI, is premised on an organization and structure which will need approximately US\$550,000-600,000 per annum.

For these purposes, a proposed budget would resemble the following: (Figures are very preliminary)

Salaries and Benefits

Director (Full-time)	
Deputy Director (Full-time)	
Research Officer (full-time)	
Draftsmen (2 Full-time)	
Secretary (Full-time)	
Typist (1 Full-time)	
Messenger (Part-time)	\$225,000
Rent	40,000
Admin and Board Travel	35,000
Equipment	10,000
Other	15,000
Research Projects	
(4 x US \$ 35,000)	140,000
Publications	30,000
Fellows Meeting (Two per year)	40,000
Technical Assistance	20,000
Scholarships	<u>5,000</u>
Sub-Total	560,000
Contingencies (@ 5.0%)	<u>28,000</u>
TOTAL	588,000

42

APPENDIX 5

LIST OF PERSONS INTERVIEWED BY EVALUATORS

APPENDIX 5

LIST OF PERSONS INTERVIEWED BY EVALUATORS

* Interviewed By Telephone

TALLAHASSEE

Professor Ed Schroeder
Director/Professor Law Library

Mr. Mike Lynch
Law Librarian

Professor James Affini
Co-Reporter, Arbitration

Prof. Sheldon Kurtz *
Dean, FSU School of Law

Prof. Josh Morse
Co-Reporter, Shipping

Mr. John Larson
Ms. Cynthia Griffith (Atty)

Professor Elwyn Griffith
Exec Director, CLI

Ms. Rayanne Mitchell
Admin. Asst. CLI

Ms Diane Smith)
Ms. Kathy Ray)
Ms. Sarah Martin)

FSU
Administrative
Staff

JAMAICA

Mrs Velma Newton
Dep. E. D.

Mr. Luis Coronado)
Ms. Rosalie Henry)
Mr. Ed Dragon)

USAID

JAMAICA

Dr. Ken Rattray
Solicitor General

Mrs. Hyacinth Lindsay
Chief Parliamentary Counsel

Hon. Carl Rattray
Min. of Justice/A-G.

Mr. Albert Edwards
Parliamentary Counsel

Mr. David Muirhead Q.C.
Mr. Joswyn Leo-Rhynie, Q.C.)
Dr. Lloyd Barnett
Ms. Dorothy Lightbourne

Jamaican
Bar
Association

Dr. Paul Chen Young
Chairman Eagle Financial Group

Mrs. Shirley Miller
Director, Law Reform Div.

Mr Aulous Madden
Inst. Of Chartered Accts/Carib.

Mr. Hugh Gentles
Priv. Sector Org. of Ja.

Mr. Willie Roper
Principal N.M. Law School

Duke Pollard Esq.
Atty. at Law

Sen. O.G. Harding Q.C.
Former Atty. Gen.

BARBADOS

Sir Keith Hunte, Principal
Cave Hill Campus

Dr. N.J.O. Liverpool
Lecturer, Faculty of Law

Sir Denys Williams
Chief Justice, Barbados

Sir Neville Nichols *
President, CDB

Prof. Ralph Carnegie
Prof. of Law, UWI

Andrew Burgess
Dean, Faculty Of Law, UWI

Mr. Pat Thompson
Exec. Dir. CAIC

Sen. Chris Blackman Q.C.
Attorney-at-Law

Mr. Barry Renwick Q.C.
Legal Advisor (OECS)

Mr. Bryn Pollard S.C.
Legal Advisor (CARICOM)

Mr. Aaron Williams
Director, RDO/C
and other USAID staffers
at RDO/C, particularly

Mr. Larry Armstrong
Dep. Director, RDO/C

Dennis Darby Esq.
Project Advisor, CJIP

Drew Luten Esq.
Regional Legal Advisor

Prof. Talbot D'Alemberte
President CLI

H. Bernard St.John Esq.Q.C.
Attorney at Law

Stephen R. MacNamara
Director, CLI/Atty. at Law

Mr. Melvin Edwards
Regional Coordinator, SEAP

ST. KITTS & NEVIS

Mr Omax Gardner
Chartered Acct.

Mr. Terence Byron
Attorney at Law.

Hon. Tapley Seaton Q.C.
Attorney General
Hugh Rollins. Esq.
Solicitor General,

Karl Atterbury, Esq.
Chief Parl. Counsel
St. Kitts & Nevis

AS

Mr. Dwight Venner
Governor, ECCB

Mr. Justin Vincent
Exec. Director, ECSEDA

Mr. Claire Roberts
Attorney at Law

Mr. Justin Simon
Attorney at Law

Hon. Keith Ford Q.C.
Attorney General

Mr. Bryan Stewart-Young
Businessman

DOMINICA

Hon. Jenner Armour Q.C.
Attorney General

C. Ashton Piper Esq.
Attorney at Law

ST. VINCENT & THE GRENADINES

Hon. Parnell Campbell M.P.
Attorney General
L. Douglas Williams Esq.
Attorney at Law

Othneil Sylvester Esq.
Attorney at Law
Mr. Ken Boyea
Businessman

GRENADA

Hon. Mr Justice Carol Bristol
Chief Justice

F. C. Wilkinson Esq.
Attorney at Law

Hon. Dr. Francis Alexis
Dep. Prime Minister;
Attorney General.

TRINIDAD & TOBAGO

Hon. Ms Amrika Tiwari
Acting Atty. General

Dr. Claude Denbow
Attorney at Law.

Russell Martineau Esq.
Former Atty. Gen.

Guya Persaud Esq
Advisor, Law Commission

Mrs. Lucille Mair
Senior Legal Advisor,
Central Bank

John Jeremie Esq.
Attorney at Law

Michael de la Bastide
Esq. Q.C. Attorney at Law

Austin Davis Esq.
Principal Hugh Wooding

**Stephanie Daly, Esq.
Attorney at Law.**

ST. LUCIA

**His Excellency
Desmond McNamara
Attorney at Law**

**Hon. Parry Husbands Q.C.M.P.
Attorney General**

APPENDIX 6

LIST OF DOCUMENTS CONSULTED BY EVALUATORS

APPENDIX 6

LIST OF DOCUMENTS CONSULTED BY EVALUATORS

Agreement between the Florida State University and the University of the West Indies,
Oct. 28, 1988.

The Arbitration Project (A compendium of documents).

Caribbean Law Institute: Grant Proposal (1988).

Caribbean Law Institute Institutionalization - (AID).

Caribbean Law Institute: First Meeting of the Fellows, Feb. 3, 1990.

Caribbean Law Institute Project: 1990 Proposal.

Caribbean Justice Improvement Project: Midterm Evaluation.

CLI Maritime Law Conference 2.

Comments of preliminary draft received from several persons, including: Sir Keith Hunte,
Prof. D'Alembert, Prof. Griffith, Mrs. V. Newton, Dr. Nick Liverpool, and RDO/C.
(RDO/C letter, July 25, 1991)

Consumer Protection Law; Advisory Committee Meeting. (Dec. 8, 1990).

Cooperative Agreement No. 538-0165-A-00-8219-00, with covering letter
(Heishman/Johnson, Aug. 1, 1988).

Draft Minutes of meeting of representatives of Uwi and FSU to discuss institutionalization
of CLI. (May 24, 1991).

Explanatory Note: The Arbitration Project - Domestic Arbitration.

Letter to Rod Johnson/D'Alemberte. (Oct. 11, 1989).

Letter to Larry Armstrong/Elwyn Griffith. (July 13, 1989)

Letter from Luton to D'Alemberte (March 15, 1991).

Meeting of Representatives of FSU and UWI to Discuss Institutionalization of the
Caribbean Law Institute, Dec. 5, 1990. (Minutes.)

Memorandum of Understanding between the University of the West Indies and the Organization of Eastern Caribbean States for a treaties project.

Memorandum: "Caribbean Law Institute Cooperative Agreement" (Darby/Mission Director).

Memorandum: Caribbean Law Institute, Special Projects (Lynch/Griffiths).

Memorandum: "Caribbean Law Institute Board of Directors Meeting held on February 25, 1991" (Luton/RDOC).

Memorandum: "Caribbean Law Institute Project Proposal." (Darby/Johnson)

Memorandum: Morse to Pollard on "Comments from B.T.I. Pollard of the Caribbean Community Secretariat on the Recommendations of the CLI's Shipping Conference on CARICOM (Merchant) Shipping Bill" (April 8, 1991).

Minutes of meeting of CLI Board of Directors Feb. 25, 1991.

Modification #3 to Cooperative Agreement (Aug. 31, 1990).

New Project Description for FY 1992: Sustainable Justice Reform.

Opening Statement Before the West Indian Commission By Hon. H. de B. Forde, Chairman of the Barbados Labour Party (Leader of Barbados Opposition)

Overview of Progress of CLI Activities for Meeting with Members of CLI Board of Directors (Darby/Williams, Lerner).

Proceedings of the Third Company Law Advisory Committee (Dec. 1, 1990).

Proceedings of First Meeting of the Bankruptcy Law Advisory Committee. (Dec. 7, 1990)

Proposal for the Reconstitution of Caribbean Law Institute. (UWI Proposal signed by Sir Keith Hunte, Sept. 28, 1990)

Reconstitution of the Caribbean Law Institute: a Progress Report (CLI - May 8, 1991).

Report of Program Review for Caribbean Law Institute. Mudge Report June 8, 1990.

Report of Caribbean Law Conference on CARICOM Draft Shipping Bill (Sept. 1990).

Statute 24 - Institutes, Centers and other Units of Learning and Research. (UWI Statutes)

Two (2) brochures on the CLI.

Typical Documents from FSU Administration.

APPENDIX 7
PROJECT SCOPE OF WORK

SCOPE OF WORK

Consultants to Evaluate Caribbean Law Institute Project

Activity to be Evaluated

The activity to be evaluated is the Caribbean Law Institute Project (538-0165), which is being implemented under a Cooperative Agreement between Florida State University and USAID/Barbados. The project was authorized on August 18, 1988, with an initial funding allocation of US\$1.5 million, which has been subsequently increased to US\$4.5 million. The grant completion date presently specified in the cooperative agreement is August 31, 1993 with the estimated life of project stated in the authorization as being eight years from the date of the August 1, 1988 initial obligation.

Purpose of the Evaluation

This will be a mid-term evaluation of the CLI project and is intended to assess CLI's progress in meeting the goals and purposes of the project and to ascertain the level of commitment of the beneficiary countries to implementing CLI-proposed law reform in the region.

Background

The Caribbean Law Institute Project was authorized on August 18, 1988 and is a regional initiative designed to provide assistance to the Commonwealth Caribbean countries in law reform, law harmonization and clarification of laws in the Commonwealth Caribbean, especially in the areas of trade, commerce and investment. The project also provides for technical assistance and training to beneficiary countries to support their law reform efforts.

Statement of Work

To evaluate the progress that CLI is making in achieving the goals and purpose of the Project RDO/C requires the services of one U.S. consultant and one Caribbean consultant to perform an assessment in the following areas:

- (1) The commitment of the beneficiary countries to law reform efforts in the region and the effectiveness of CLI in establishing itself as a major contributor to such countries' efforts.
- (2) Effectiveness of the liaison established between CLI, the

52.

fellows of the Institute and the CLI Advisory Committee, Caricom, OECS and other regional organizations with an interest in law reform.

(3) Impact of CLI journal, Caribbean Law and Business, on the law reform effort. In this regard, the consultants are to consider what if any further initiatives can be taken by CLI to ensure that the journal remains an effective conduit for legal development in the Caribbean.

(4) The implementation progress of the various sub-projects funded by CLI since its inception.

(5) The effectiveness of the technical assistance and training in the overall project:

(6) The effectiveness of the liaison created by CLI between the legal and business communities and the efforts of those constituencies in collaborating on the law reform effort in the areas of trade, commerce and investment.

(7) The continued validity of the assumptions contained in the logical framework underlying the CLI project. Under this heading the consultants will also be required to assess the adequacy of the present project design for achieving the stated objectives of the Project, including the existing management arrangements.

(8) The effectiveness of the partnership formed by the cooperating universities, Florida State University and the University of the West Indies, and the efforts of the CLI Board of Directors in fully establishing and identifying CLI as a Caribbean-based institution.

(9) The effectiveness of the Commercial Law Survey as a tool in identifying constraints amenable to CLI intervention.

Methods and Procedures

(1) Prior to beginning evaluation activities, the consultants will review material provided by CLI and RDO/C on the Project.

(2) The consultants will interview the appropriate individuals in RDO/C, the University of the West Indies, Florida State University, judges, attorneys-general, members of the private bar, business persons, and the CLI Fellows in order to assess how the law reform objectives of CLI are being realized, especially as they relate to the relief of legal constraints to trade, commerce and investment.

The evaluators will work a five-day, eight-hour per day work week and will spend approximately two days in Tallahassee, Florida and

53

approximately twenty eight days in the Caribbean in the performance of evaluation activities. Evaluation activities will begin during January 1991.

Reports

The evaluators will submit a draft report and a final report. The report should contain an Executive summary which indicates the purpose of the evaluation, the method of the evaluation, the findings, conclusions, recommendations and the observations about the design and implementation of this law reform project. The report should also discuss:

- (1) the purpose and study questions of the evaluation;
- (2) the legal, economic and political context of the project;
- (3) team composition and study methods;
- (4) evidence on which the evaluation findings are based;
- (5) conclusions drawn from the findings;
- (6) recommendations for improving project performance.

Appendices to the report will include the scope of work for the evaluation, a current logical framework for the project, a list of documents consulted and the names of persons and agencies contacted. At the end of the evaluation, the evaluators will give a draft copy of their report to RDO/C 5 working days before leaving Barbados. An exit interview will be held within 3 working days of receipt of draft. Within four weeks after leaving Barbados, the evaluators will send two copies of the final report by express mail service to USAID offices in Barbados.

While in the Caribbean, the evaluators will liaise with the RDO/C Project Manager for CLI and the CLI Deputy Executive Director, to ensure that the issues they are addressing are relevant to the evaluation of the project.

Evaluation Team Composition

The evaluation team is to be composed of one technical assistance person from the United States and one technical assistance person from the Caribbean. The U.S. person should be of at least ten years standing at the Bar of a state in the United States and be familiar with the Commonwealth Caribbean legal system and with the evaluation of legal projects.

The Caribbean person should be of at least ten years standing at the Bar in a Commonwealth country and have legal, administrative or evaluation experience.

54

The contractor will designate one of the evaluators as the chief of party whose primary responsibility will be to insure that the work is performed in a timely and efficient manner.