# Towards a Greater Caribbean IPPA

By GREGORIO CANALES RAMÍREZ
Chairman, ACS Trade Committee

GREGORIO CANALES graduated in Economics from the Instituto Tecnologico y de Estudios Superiores de Monterrey (ITESM) and holds a postgraduate qualification in Project Evaluation from the Istituto per lo Sviluppo Economico e la Pianificazione in Napes, Italy. He has 20 years' experience in international trade and has worked on and concluded private sector negotiations in respect of investment and commercialisation projects at the international level. He served as Subsecretary of International Commerce in the Government of the State of Nuevo Leon, where he was responsible for the implementation of a highly successful programme to attract foreign investment. He is currently Director General of Foreign Investment at the Ministry of Economy.

The growing world integration of trade and investment has generated, in parallel, an extensive network of trade treaties that span various disciplines. In the investment field, Investment Promotion and Protection Agreements (IPPAs) are international Instruments, used regularly between two States, which offer legal certainty for the investments of the counterpart.

IPPAs seek to promote the flow of direct productive foreign investment, facilitating and providing security for the flows of capital that enable the globalisation of products and services. This normally brings with it wider and better distribution of the manufacture of goods and the provision of services, and contributes to the generation of employment, the sharing of knowledge and technology and, generally, the economic development of the target regions. IPPAs normally relate to areas such as: range and definition of investment, national treatment, most-favoured-nation treatment, minimum standard of treatment, compensation in the event of expropriation of investment, guarantees to replace income transfers, and dispute settlement mechanisms (Investor-State and State-State).

At the end of 2005, the total number of international IPPAs in the world was approaching 5,500, of which around 2,500 were bilateral agreements[1].

In the 1990s, particularly during the latter part of the decade, a large number of bilateral investment agreements were signed, and many more are currently being negotiated. This is due to clear perception of them as tools for promoting the arrival of investors in countries with a clear need for economic growth (e.g. China, India, Mexico, etc.). A multitude of bilateral agreements have therefore been created, accompanied by certain operational inconsistencies and problems regarding their implementation and administration, a phenomenon known as the 'spaghetti bowl'.

For this reason, encouragement of a movement towards the creation of multilateral investment agreements is considered beneficial. A region's agreements are its response to the growing global competition between national economies and the need to create common fronts, thus facilitating implementation and administration of the agreements and of the costs involved in the individual corresponding negotiations.

There are already some investment agreements at regional level, such as those signed between Arab and Islamic countries, as well as Africa and Asia. Classic examples are the Arab Agreement on investment and free circulation of capital and the Agreement on the promotion, protection and guarantee of investments between member States of the Islamic Conference Organisation.

The classic example is perhaps that of Europe which, after adopting the Treaty of Rome in 1957, evolved towards an economic union whose original aim was to create a borderless market, investments included.

In 1957, the Arab countries were the first group of developing countries to set up an economic integration agreement with references to the subject of investment, through the Arab Economic Union Agreement. Subsequently, they signed amendment agreements to strengthen the protection of investments between the members of the region. In 1981, the countries of the Islamic Conference Organisation[2] signed an Agreement on the Promotion, Protection and Guarantee of Investments.

The 1976 Agreement for the promotion and protection of investments by the Association of South-East Asian Nations (ASEAN) has undergone various amendments to bring it up to date with current trends. Member countries include: Brunei Darussalam, the Republic of Indonesia, Malaysia, the Philippine Republic, the Republic of Singapore, the Kingdom of Thailand, Cambodia, the Lao People's Democratic Republic, Burma and Vietnam.

Similarly, some Asian economies, with foreign investment and rapid growth, represent the most active investment cooperation including China, the Republic of Korea, Malaysia and Indonesia.[3] With integration into investment blocs, it was recorded in Asia that more than half the flows of productive capital into the region originated from the economies of the region itself.[4]

The Joint Investment Convention of the States of the Customs and Economic Union of Central Africa was formed in 1964. The member countries are: The Federal Republic of Cameroon, Equatorial Guinea, the Republic of Central Africa, the Republic of Congo, the Republic of Gabon and the Republic of Chad. It was subsequently converted into the Central African Economic and Monetary Union.

The Andean Pact, CARICOM and MERCOSUR are examples of economic integration that include the subject of investment. However, significant proliferation and consolidation of regional groups took place after the signing of the North American

Free Trade Agreement (NAFTA).

Today, 40 per cent of the economic integration investment agreements in the Americas were signed between two countries, and 30 per cent between a group of countries and a third country.[5]

**Perspectives for the Greater Caribbean**

There is no investment treaty between the countries forming the Association of Caribbean States (ACS)[6] as there is in the continent's other agreements. The Greater Caribbean cannot be the exception to integration with regard to investment due to the importance and the opportunities it could offer to the region. An Agreement for the Promotion and Protection of Investments in the Greater Caribbean between the member countries of the Association of Caribbean States would foster greater integration and development, not only economic but also diplomatic, in addition to the benefits already discussed which result from agreements of this kind.

On the other hand, negotiation attempts, such as the Free Trade Area of the Americas (FTAA) or the Multilateral Investment Agreement (MIA), have not reached a conclusion and have resulted in questioning of the feasibility of negotiating multilateral agreements of this kind. However, the reality is that regional agreements have proven their validity and usefulness. Agreements such as ASEAN or the agreements between Arab countries are a clear example of cooperation to strengthen and support development in a region. The Greater Caribbean could use examples such as these for the economic benefit and prosperity of its members.

Therefore, in an ideal world, there would be a multilateral agreement for the Greater Caribbean; a great Agreement with clear rules to which the countries would adhere, preventing the proliferation of tangled bilateral Agreements. F

1 *The remainder are double taxation agreements or agreements containing provisions on the subject of investment. World Investment Report 2006. United Nations Conference on Trade and Development (UNCTAD). Page 26.*

2 *In 1995, the number of members increased: Afghanistan, Albania, Algeria, Azerbaijan, Bahrain, Bangladesh, Benin, Brunei Darussalam, Burkina Faso, Cameroon, Chad, Comoros, Djibouti, Egypt, Gabon, Gambia, Guinea, Guinea-Bissau, Indonesia, The Islamic Republic of Iraq, Jordan, Kuwait, Kyrgyzstan, Lebanon, Libyan Arab Jamahiriya, Maldives, Malaysia, Mali, Mauritania, Morocco, Mozambique, Niger, Nigeria, Oman, Pakistan, Palestine, Qatar, Saudi Arabia, Senegal, Sierra Leone, Somalia, Sudan, Syrian Arab Republic, Tajikistan, Tunisia, Turkey, Turkmenistan, Uganda, United Arab Emirates, Yemen, and United Republic of Tanzania.*

3 *South-South cooperation on the subject of international investment agreements. United Nations Conference on Trade and Development (UNCTAD) 2005. Page 9.*

4 *World Investment Report 2006. Op cit.*

5 *Investment provisions in economic integration agreements. United Nations Conference on Trade and Development (UNCTAD) 2006. Page 33.*

6 *The ACS is made up of 29 countries: 25 independent states with full member status and 4 dependent territories with associated member status. The full members of the ACS are: Antigua and Barbuda, Bahamas, Barbados, Belize, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Suriname, Trinidad and Tobago, Venezuela. The associated members are: Aruba , France (on behalf of French Guiana, Guadeloupe and Martinique), the Netherlands Antilles and Turks and Caicos.*

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Panama City is thriving on the back of the Panamanian government's pro-trade policies