



OHADAC

ORGANISATION FOR THE HARMONISATION OF BUSINESS LAW IN THE CARIBBEAN

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ANGUILLA | 
ANTIGUA & BARBUDA | 
BONAIRE, SAINT EUSTATIUS, SABA | 
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CUBA | 
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GRENADA | 
GUYANA | 
HAITI |
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BRITISH VIRGIN ISLANDS | 
JAMAICA | 
MEXICO | 
MONTSERRAT | 
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THE OHADAC: A PROJECT FOR THE GREATER CARIBBEAN

The OHADAC project, acronym for the ORGANIZATION FOR THE HARMONIZATION OF BUSINESS LAW IN THE CARIBBEAN, was created at the Conference of May 15, 2007 in Pointe à Pitre, Guadeloupe. The organization takes its name from the OHADA treaty for the Harmonization of Business Law, which links 17 countries in Sub-Saharan Africa and is currently considered to be an example of integration by the international community.

The OHADAC project is keenly conscious of its geographical environment. Composed of a mosaic of territories resulting from English, Dutch, American, Spanish and French colonization, the Caribbean enjoys a diversified legal heritage:

- common law, for the majority of the English-speaking Caribbean,
- civil law, for the Spanish and French-speaking Caribbean.

In spite of the differences generated by history and settlement, and in spite of a willful isolationism harmful to its economic development and the emergence of a common cultural identity, for over half a century these countries have been pursuing multiple avenues to increased interregional and international cooperation, including:

- the WIAS (West Indies Associated States), created in 1966 and in the frame of which the Eastern Caribbean Supreme Court was created,
- the Treaty of Chaguaramas of 1973, establishing the CSME (Caribbean Common Market),
- the OECS (Organization of Eastern Caribbean States), created in 1981,
- the Cotonou Agreement of 2000, signed between the ACP countries and the European Union, which enables these countries to register certain projects to reform the legal and judicial systems of the Caribbean countries as eligible for European financing, provided that the projects' goals seeking sustainable development wherein human beings are both the principal actors and the principal beneficiaries,
- but also, the ACS (Association of Caribbean States), CARICOM (Caribbean Community), CARIFORUM, etc.

These members of the West Indian region and the 3 Guyanas can also play a role in larger cooperative arrangements such as MERCOSUR, the South American Community of Nations, the countries of the Andean Pact, etc.

The French departments in the Americas are resolutely committed to this intracaribbean cooperation, both in the framework of deconcentration and of decentralization, most notably (and recently) in the case of Guadeloupe and Martinique, in the context of the following acts:

For Guadeloupe:

- In 2012, the Guadeloupe Region joined the Economic Commission for Latin America and the Caribbean - ECLAC - UN Regional Commission
In January 2014, the Guadeloupe Region was designated as new management authority for European funds,
On April 14, 2014, the Guadeloupe Region joined the Association of Caribbean States as an associate member,

- From February 2-7, 2015, Guadeloupe hosted the meeting of the outermost regions,
On February 9, 2015, the delegation from the Guadeloupe Region led by one of its vice-presidents, Ms. Thérèse Marianne-Pepin, officially began negotiations which should lead Guadeloupe to join two international Caribbean organizations: the Organization of Eastern Caribbean States (OECS) and the Caribbean Community (CARICOM).

For Martinique:

In the context of its regional institutional insertion, the Martinique Region has taken great strides towards joining the regional organizations in the area:

- the Economic Commission for Latin America and the Caribbean (ECLAC),
- the Organization of Eastern Caribbean States (OECS),
- the Association of Caribbean States (ACS),
- the Caribbean Community (CARICOM),
- On August 31, 2012, Martinique became an associate member of CEPALC and as such, President Serge Letchimy took on the role of French representative at the 34th session of the Economic Commission for Latin America and the Caribbean (ECLAC) in San Salvador.
- Martinique has also joined the Caribbean Development and Cooperation Committee (CDCC), the CEPALC body in charge of relationships with the Caribbean sub-region.
- At the 60th Meeting of the High Authority of Heads of State of the OECO on February 4-5, 2015, Martinique became the first French-speaking territory to join this regional organization as an associate member.
- Martinique's request for membership in CARICOM as an associated member has also been formalized, and the first negotiation meeting was held in Guyana on January 21, 2015.
- Finally, on May 9, 2015 Martinique will host the France-Caribbean Summit devoted to preparation and mobilization for the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change.

STATUS OF THE OHADAC PROJECT'S PROGRESS

The Havana Declaration of June 26, 2010 called for the development of a Caribbean arbitrating body that would provide businesses in the Greater Caribbean with recourse to an affordable, powerful, and directly enforceable system of arbitration. After two unsuccessful European calls for tender, ACP LEGAL, the OHADAC project leader, signed agreements with international researchers teams and is currently able to present its work under four rubrics:

- **Draft Proposal for OHADAC Arbitration and Conciliation Rules**

These regulations aim to give stakeholders the primary role in international commercial arbitration by ensuring the promotion of a competitive, flexible and economic arbitration procedure based on legal security with a maximum requirement of competence, neutrality, independence and responsibility of the arbitrators at an affordable cost for SMEs in the Caribbean zone.

- **Draft Proposal for OHADAC Principles relating to international commercial contracts**

These are optional regulations for international contracts, a meeting point for the common law and civil law cultures present in the Caribbean, which aim to promote legal security for international trade in the Caribbean region.

- **Draft Proposal for the OHADAC Model Law relating to private international law**

It advocates for the harmonization of national regulations on international jurisdiction, applicable law, the recognition and

execution of foreign verdicts, and serves as an instrument of modernization of the private international law of the Caribbean States and Territories.

- **Draft Proposal for the OHADAC Model Law on Commercial Companies**

Using a framework of recommendations, model rules, and harmonized provisions, this aims to facilitate international business activities in the Caribbean: mergers, opening branches, transfer of headquarters, mixed companies, groups of companies, etc.

These texts are currently completed and available in their original version here: www.ohadac.com. They were created by OHADAC experts in close collaboration with the Henri Capitant Association as part of a tripartite partnership with the ACP Légal association. The law schools at the Universities of Granada and Madrid (Complutense) are also highly involved in this process, in connection with Caribbean legal experts, and notably the President of the Arbitration Chamber of Cuba.

The translation of these draft proposals in the three official languages of the OHADAC project - that is, French, English, and Spanish - is currently largely underway and will be published on the OHADAC website so that all texts may be used.

NEXT STEPS FOR THE PROJECT

The work of the OHADAC project will be officially presented at the conference that will be organized by ACP Légal on September 21-22, 2015, in Guadeloupe, in the presence of representatives of the Caribbean States, different Chapters of the OHADAC space, OHADAC experts, representatives, legal experts, Universities, etc.

This Conference will allow all completed work to be officially presented, and will announce the creation of the very first OHADAC institution, the "OHADAC Center for Arbitration and Conciliation".

Please note that all countries and territories of the Greater Caribbean are the natural beneficiaries of the legal instruments that will be offered by the OHADAC.

They particularly aspire to adapt better to the realities of the Caribbean economy by implementing this new and innovative international organization, which promotes instruments for harmonizing private law across the Caribbean. Over time, this should contribute to reducing the legal and geographic fragmentation of the Caribbean area.

The OHADAC project will contribute to the concrete completion of a Caribbean bloc favorable to commercial trading and investment,

allowing the region to benefit and expand its initial assets, particularly tourism, logistics (expanding the Panama Canal), and oil drilling.

On an institutional level, the creation of an intracaribbean arbitration and conciliation center to facilitate the rapid resolution of differences relating to regional trade in goods and services for SMEs will be followed by the creation of a regional database on business law.

The promotion of the OHADAC project will be pursued throughout the Caribbean territories, with the support of France and the European Union, so that the "OHADAC instruments" may be gradually recognized and approved by each State and territory as instruments of private international law for Caribbean businesses.

OHADAC is intended to become an instrument that serves the real regional integration of the countries and territories of the Caribbean.