

Office of the President

October 12, 2006

## MEMORANDUM TO THE EXECUTIVE DIRECTORS

### *Proposal to Establish and Administer a Trust Fund for the Caribbean Knowledge and Learning Network*

#### I. Introduction

1. I submit for your approval the proposed establishment and administration by the International Bank of Reconstruction and Development (IBRD) and the International Development Association (together with IBRD, the Bank) of the Caribbean Knowledge and Learning Network Trust Fund (the Trust Fund) which will be funded by the European Union, given that the recipient of the grants made from the proposed Trust Fund will be the Caribbean Knowledge and Learning Network Foundation Limited (the CKLN Foundation) whose activities could potentially benefit countries that are not members of the Bank.
2. The concept of the Caribbean Knowledge and Learning Network (CKLN) originated at a meeting of Heads of State of the OECS Countries and Barbados in November 2002. The CKLN was officially launched in July 2004 at the 15<sup>th</sup> Intercessional Meeting of the CARICOM Heads of Government.
3. The proposed Trust Fund will be funded with a contribution from the European Union of approximately € 2 million which will represent the European Union's initial contribution to the Project. The Trust Fund will allow scaling up of the Project following a successfully concluded pilot exercise carried out in the Eastern Caribbean during 2005/2006.

#### II. Background and Context

##### A. Objectives

4. The Caribbean Knowledge and Learning Network (CKLN) seeks to enhance the competitiveness of Caribbean countries by upgrading and diversifying the skills and knowledge of human resources in the Caribbean region through greater regional collaboration and connectivity. CKLN is supported by CARICOM and is governed by a Council representing Educational Institutions from CARIFORUM Countries<sup>1</sup>. Its main clients are Tertiary Education Institutions (TEIs), including the University of the

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<sup>1</sup> CARIFORUM is the acronym for the Caribbean Forum of the African, Caribbean and Pacific Group of States (the "ACP") and includes all of the states that are members of the ACP and geographically located in the Caribbean. As of the date of this Memorandum, CARIFORUM is comprised of the following members of the ACP: Antigua and Barbuda, The Bahamas, Barbados, Belize, Cuba, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago. With the exception of Cuba, all of the members of CARIFORUM are members of the Bank. Of course, the composition of CARIFORUM is a function of the admission and membership policies of the ACP and may therefore change over the course of the Proposed Trust Fund and the accompanying grants.

West Indies. It liaises closely with a number of locally-based professional associations and other entities with an interest in building capacity in the Caribbean.

5. State-of-the-art information and communications technologies will be used to connect the region's Colleges and Universities, fostering collaboration, the development of region-wide e-learning programs and knowledge sharing. Carried out in parallel with efforts to remove other constraints facing these institutions, the CKLN will increase access to quality educational opportunities for Caribbean students, wherever they choose to study.

6. There are three specific objectives:

- To improve the relevance of tertiary education and training by increasing the number of accredited tertiary education programs recognized internationally for their excellence.
- To establish a Caribbean Knowledge and Learning Network to strengthen TEIs, foster specialization and knowledge sharing.
- To ensure the convergence of fragmented regional and international initiatives to maximize results in the area of tertiary and distance education.

## **B. Context and Sector Issues**

7. The small states of the Caribbean are faced with a growing set of challenges and opportunities arising from the impacts of globalization, the increased importance of knowledge as an impetus for growth, and the information and communication revolution. For the most part, the target nations are small island states with a past dependence on agriculture and preferential trade agreements, and a relatively small private sector with limited human and financial capacity.

8. Recent analytical work by the Bank<sup>2</sup>, reinforces the view that future economic competitiveness will depend on the development of competitive services (including government services). This will, in turn, require a population with high levels of literacy and technical proficiency - including scientific, mathematical and IT skills, complemented by less traditional skillsets, including entrepreneurship, marketing, and business practices. Achieving this goal will require regionalization, leveraging of available economies of scale, greatly improved educational systems and the application of information and communications technologies.

9. These challenges are affecting tertiary education on a global scale and have been well documented<sup>3</sup>. One common conclusion is that Tertiary Education Institutions need to rapidly adopt new modes of operation to fulfill their role as part of the global knowledge economy. These include: (i) a greater focus on lifelong learning, (ii) greater emphasis on serving as facilitators in societal interchange, (iii) improved responsiveness to the needs of industry and the labor market and, (iv) renewed efforts to provide increased access to tertiary education, particularly to marginal or non-elite groups. Around the World these pressures, are leading to diverse outcomes, not least the emergence of virtual universities, an explosion in private provision, education franchises and consortia. The primary beneficiaries of these changes are students of all ages who are increasingly able to define what, how and where they wish to learn.

10. At the Eighteenth Meeting of the Conference of Heads of Government in 1997, CARICOM set targets for increased enrollment in tertiary-level education, stressing that: (i) tertiary-level institutions will have to be strengthened and measures of accountability taken so that the quality of output is closely

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<sup>2</sup> See "A Time to Choose: Caribbean Development in the 21st Century" and "OECS: Towards a New Growth Agenda", both World Bank, 2005

<sup>3</sup> See "Constructing Knowledge Societies: New Challenges for Tertiary Education", World Bank, 2002

aligned to current and anticipated needs and the realities of society; (ii) new methods of delivery, such as distance education, are required and a policy which places more emphasis on exit standards rather than on initial entry qualifications will have to be adopted; and (iii) quality assurance mechanisms will be critical to this development.

11. Similarly, the “Pillars for Partnership and Progress,” adopted by the OECS Ministries of Education, defines their Education Reform Strategy until 2010. The pillars include, (i) expanding existing institutional capacities and articulating OECS institutions with external colleges and universities when appropriate, (ii) re-structuring the governance of tertiary institutions to allow greater autonomy, wider national representation and greater accountability; (iii) encouraging private and public sector initiatives in providing continuing education for adults and improving existing programs of training of teachers of adults; (iv) upgrading the modes of delivery of tertiary education in keeping with current worldwide trends.

12. With the strong support of the Governments of the Region, the CKLN aims to tackle strategic constraints to the development of improved skills and human capital in the Caribbean. There is significant evidence that if such an enabling environment can be provided, employers, educational institutions and international partners will rise to the challenge of providing opportunities for Caribbean people to develop the up-to-date and relevant skills that will underpin improvement of both the public sector and local entrepreneurial development.

### C. Project Design

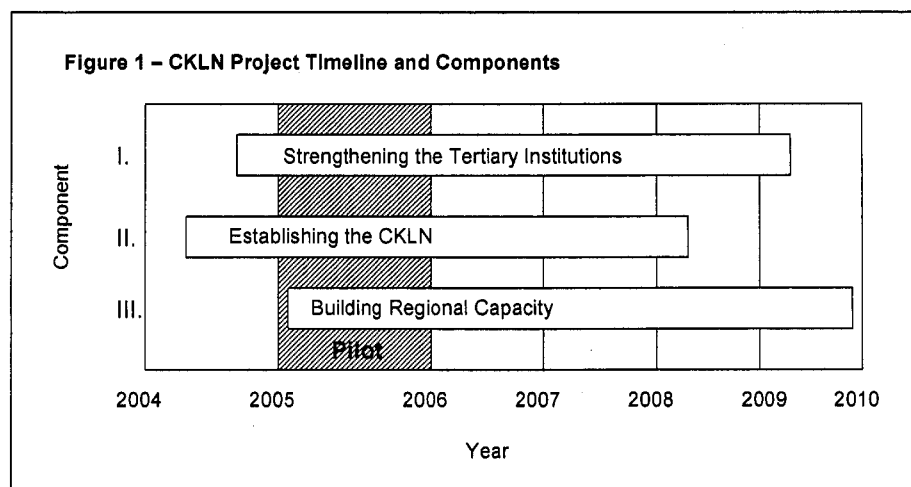
13. The CKLN has been established as an **umbrella initiative** to align projects and programs aimed at addressing these issues through information and communications technologies (ICTs) and distance education. The Project has been designed in **three major components** (see Figure 1), (1) Strengthening of the Tertiary Education Institutions, (2) Establishment of the CKLN (investment phase), (3) Building Capacity - Delivering Regional Programs and Services.

14. The Project recognizes that achieving the level of transformation envisaged among a large, dispersed and heterogeneous set of institutions requires a **phased approach** which builds on lessons learned during a pilot phase. The pilot would focus on (i) designing and implementing a suitable enabling environment, (ii) working closely with, and learning lessons from, a limited set of Tertiary Education Institutions, and (iii) supporting the parallel development and scaling of support services and the institutional framework.

15. The Project design also acknowledges missteps made in similar initiatives in the Caribbean and elsewhere, where projects have been heavily weighted towards supply of information infrastructure (hardware and software) and less on ensuring the necessary educational outcomes. This Project, including the pilot phase, has adopted an approach where the **provision of the technology investment will be “triggered” on an institution-by-institution basis** once each achieves a minimum set of standards, notably relating to physical infrastructure and human resource capacity, and has successfully completed a series of preparatory steps designed to ensure that the investment is well used, achieves learning outcomes and is sustainable. The latter includes development of a viable business plan and a critical mass of trained faculty and administrators.

16. Finally, a further lesson emerging from similar initiatives (for example, the African Virtual University (AVU) and the Global Development Learning Network (GDLN)) supports the view that **initiatives aimed at developing networks of partners should aim to unlock the potential of their membership rather than attempt to establish a highly centralized infrastructure**. To this end, the CKLN aims to provide an enabling environment which can be used by others to achieve their potential.

There is also significant evidence from the pilot phase, that a relatively modest investment can lead to the rapid uptake of new approaches to learning, the development of productive partnerships between existing TEIs in the Region and beyond (e.g. with North America and Europe) and increased interest on the part of the private sector and professional associations in human resource capacity development.

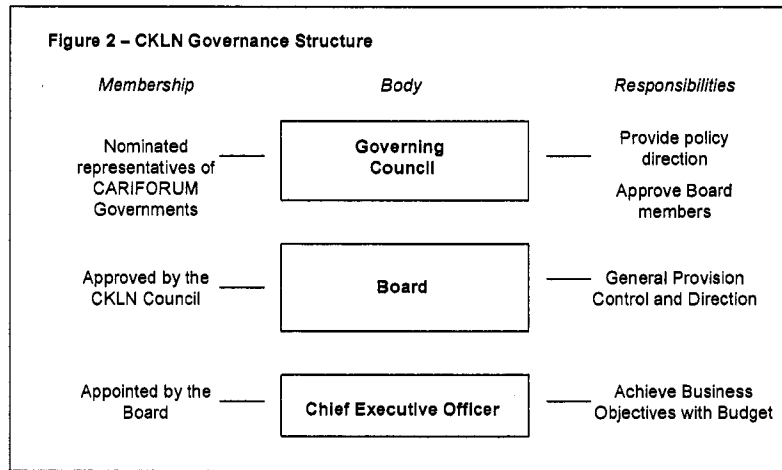


17. The **Pilot Phase** was undertaken during 2005 with the support from the Organization of American States (OAS) and the Canadian International Development Agency (CIDA). Capacity and Needs Assessments were undertaken in eleven (11) TEIs from nine (9) OECS Countries. A total of 322 faculty were introduced to new approaches to learning and policy workshops were carried out with senior management from the participating institutions. A pilot course development exercise, designed to operationalize the theoretical aspects of the pilot, is underway, led by the University of the West Indies (UWI). This is contributing to the development of a cohort of trained and motivated educators who will be able to champion the development of the CKLN as it scales up.

18. The **institutional framework for the CKLN** was also put in place during 2004 / 2005. The CKLN Foundation was registered as a not-for-profit in Grenada on October 10<sup>th</sup> 2004. The Memorandum and Articles of Association detail the governance structure associated with the entity<sup>4</sup>. As shown in Figure 2, this includes a Council drawn from representatives of CARIFORUM<sup>5</sup> Governments and a Board, approved by the Council. The first meeting of the Council, consisting largely of Ministers of Education and/or Science and Technology occurred in June of 2004. The Board, approved at the first Council meeting, has met on a quarterly basis.

<sup>4</sup> See <http://www.ckln.org/>

<sup>5</sup> CARIFORUM is the acronym for the Caribbean Forum of the African, Caribbean and Pacific Group of States (the "ACP") and includes all of the states that are members of the ACP and geographically located in the Caribbean.



19. A baseline **Labor Market Study** was undertaken during 2005/2006. This confirmed the widely held view that there is a significant mismatch between the output of Caribbean TEIs and the needs of local employers. This relates not simply to the qualifications obtained by students but their exposure to behavioral and action-oriented training (e.g. negotiation, facilitation) of immediate utility in the workplace. Collectively, these short-comings are requiring Caribbean employers to invest significantly in staff induction and training to maintain a productive workforce. The baseline survey will be used to evaluate progress under the CKLN and complements the Skills Enhancement work under development by the Bank in the OECS.

***Component I: Improving the Efficiency and Relevance of Tertiary Education Institutions***

20. This component is designed to assist the Tertiary Education Institutions to **achieve the conditions necessary for their participation in the Network** and to tackle some of the major constraints affecting their development. It will assist the TEIs to take advantage of the investment included under Component II, by: (i) developing strategic planning capacities to effectively manage their resources and better provide educational and training services; (ii) defining new priorities and new ways of service delivery; (iii) establishing disciplines/fields of study in which they are capable of developing and sharing excellence with other members of the network; and (iv) improving the financing of tertiary education institutions through program budgeting and cost recovery. All these aspects are being carried out in collaboration with other donor and government-led initiatives already underway in the Region.

21. The CKLN will introduce new approaches to learning which require new skills from TEI staff. Technical assistance will provide to improve the capacity of faculty in TEIs to utilize new approaches to learning – a multi-tiered effort designed to broadly raise awareness and build ownership among faculty of the possibilities associated with student-centered approaches and distance learning. A second set of activities will provide specific skills to selected faculty (including champions associated with pilot course development), including the design, delivery and evaluation of open and distance learning.

***Component II: Establishing the Knowledge and Learning Network***

22. Component II focuses on the **introduction of the technical capacity to allow internet connectivity, e-learning and knowledge sharing** among the Tertiary Education Institutions. Lack of cost-effective internet connectivity options in the Caribbean, due to physical constraints and a history of monopolistic conditions in the telecommunications industry has held back the Region when compared with others. While the original design of the CKLN envisaged provision of internet access via satellite, an examination of this issue initiated by CARICOM and supported by UNDP, suggested a bolder approach

that would lead to the establishment of an Educational Knowledge and Research Network. This would mirror networks in other Regions, notably RedCLARA (Latin America), Internet 2 (USA) and GEANT (Europe). These networks provide access to enhanced bandwidth to facilitate collaborative or joint research, distance education and the development of distributed capacities (e.g. virtual libraries, videoconferencing). Discussions surrounding the establishment of such a network for the Caribbean (provisionally titled "CARIBNET") are underway with the European Union and the Inter-American Development Bank (IDB). Unlike national/regional networks elsewhere, the applications of CARIBNET, would be extended under the concept of "social bandwidth" to serve the needs of health-care, all levels of education, community development and government. The network would make use of existing or nascent fiber-optic connectivity in the Region. At their July 6<sup>th</sup> 2006 Meeting, CARICOM Heads of Government endorsed this proposal and identified the CKLN as the agency to co-ordinate and manage the development of CARIBNET.

23. This connectivity will facilitate access for Caribbean-based staff and faculty to a broad range of web-based services as well as global knowledge resources. The Project will introduce a number of common tools, including open-source Learning Content Management Systems and web-based portals for use by students and faculty. As a pre-requisite for the introduction of web-based learning and evaluation, the Project will also support an upgrade to existing student records management systems. Many institutions have already digitized their systems while others will require migration of student registration and records management from paper-based to computerized systems.

### ***Component III: Building Capacity - Delivering Regional Programs and Services***

24. The component intends to provide or support **common services required for the functioning of the CKLN**. These include: (i) training teaching staff in curriculum development, pedagogy and delivery via distance learning methods, and in use of e-learning materials and related conversion of traditional courses, (ii) development and adaptation of a set of pilot programs (courses) which, as well as providing valuable learning opportunities, demonstrate the effectiveness of the network/approach and which highlight organizational and technical challenges which must be overcome; (iii) support strengthening of the regional accreditation and certification mechanism, (iv) strengthening of a central management function for the Network, and (v) evaluation and scale-up of the Project.

25. Recognizing that the outcome of this regional Project depends on the successful implementation of processes and mechanisms that allow accreditation of educational content, the Project will support bodies addressing the development of Quality Assurance Systems in Tertiary Institutions, notably the Caribbean Community Accreditation Agency (CCAA), the Association of Caribbean Tertiary Institutions (ACTI), the Tertiary Level Institution Unit (TLIU/UWI) and the CARICOM Regional Organization for Standards and Quality (CROSQ). At a national level, the Project will support the ongoing establishment of National Accreditation Bodies (NABs).

26. Finally, this component will strengthen the CKLN Foundation in Grenada to manage this Project and related donor contributions and partnerships. Once it has proven capacity to manage projects, it is likely that the CKLN will emerge as the regional implementing agency for a number of related efforts in the ICT/education area.

### **III. Proposed Trust Fund**

27. The European Union would like the Bank to administer the Trust Fund to ensure continuity in this Project and to maximize alignment and leverage of these funds with those from other sources. The Bank's supervision of the proposed Trust Fund will ensure that the CKLN Foundation is strengthened to the point where it can administer its own affairs.

28. As stated in paragraph 3 of this memorandum, the proposed Trust Fund will be funded with a contribution from the European Union of approximately € 2 million. The Bank will only serve as the trustee of the Trust Fund and will not be contributing funds to the Trust Fund. The European Union has agreed to arrangements that allow the Bank to recover its administrative costs from its role as trustee. The Trust Fund will have duration of five (5) years.

29. The terms and conditions of the Trust Fund, including the terms of the European Union's contribution and the Bank's role as trustee, will be contained in an Administration Agreement to be entered between the European Union and the Bank. The aforementioned Administration Agreement will be governed by the existing arrangements between the European Union and the World Bank Group.

30. The CKLN Foundation will be the only recipient of grants from the proposed Trust Fund. All of the grants made from the Trust Fund will be governed by two Grant Agreements to be entered into between the Bank and the CKLN Foundation on the Bank's customary terms and conditions. Those grants will finance activities designed to scale up the capacity of the CKLN, so that it can serve a further twenty (20) tertiary institutions.

31. Grants from the Trust Fund will finance activities that serve (i) to strengthen the capacity of the CKLN Foundation; (ii) to strengthen the capacity of certain tertiary education institutions (TEIs) and government ministries in those Caribbean countries; and (iii) to develop, provide and administer certain information and communications technologies (ICT) for TEIs in Caribbean counties participating in the CKLN. The Fund will also cover reasonable operating costs directly related to the implementation, management and monitoring of the Project, incurred by the CKLN Foundation.

32. These activities will be carried out by the CKLN Foundation and by the Bank, on behalf of the CKLN Foundation. The funds from the Trust Fund will predominately finance those activities to be carried out by the CKLN Foundation. The activities to be carried out by the Bank, on behalf of the CKLN Foundation, will be focused primarily on developing the capacity of the CKLN Foundation to responsibly manage the activities that it will carry out. Grants for the activities to be carried out by the CKLN Foundation will be contingent on the Bank's determination that the CKLN Foundation has developed this capacity to manage the activities that it will be carrying out and its fiduciary responsibilities as a grant recipient.

#### **IV. Donor Coordination**

33. The CKLN has been developed as a comprehensive umbrella initiative which will align and facilitate the numerous small-scale distance education initiatives underway in the Region. To date, the Bank has played a project coordination role and has provided the funding for project preparation and the establishment of the CKLN Foundation, essentially the project implementation unit for the Project. This commitment totals approximately \$1 million since the inception of the Project. A series of other donor commitments are at various stages. These include on-going funding from the OAS and proposals submitted to CIDA under the Caribbean Cooperation Fund (CCF) and the Caribbean Development Bank (CDB). CARICOM States have also provided counterpart funding (\$275,000). The total Project cost is likely to be around \$11 million, with the bulk of these costs being relating to CARIBNET.

34. The CKLN has worked closely with several existing Projects in the Region to ensure alignment. The CUPIDE Project (UNESCO/Japan) has been re-aligned to fit the CKLN (with approval from the donor) and the USAID-JBTE (Teacher Education) program is depending on it for connectivity. The latter will provide content into the CKLN. In addition, the CKLN is assisting the EU-supported CAREC (Caribbean Epidemiology Centre) Project with their efforts aimed at training laboratory technical staff.

Finally, discussions have also been held with the Commonwealth of Learning (CoL) and agreements reached to align activities in the Region.

35. Moving forward, and as agreed with the European Union, the Bank will convene a Donor Coordination Steering Committee for all donors contributing to the CKLN. It is proposed that this Committee will meet in the Region on a bi-annual basis and be coordinated with the scheduled meetings of the CKLN Board and Council.

## **V. Monitoring and Evaluation**

36. The Project will operate on the basis of 6-monthly Work Plans drawn up between the CKLN Board and the Bank. These will be presented for approval to, (i) the CKLN Governing Council and, (ii) the Donor Coordination Steering Committee. Recommended alterations to these plans will be reconciled by the CKLN Board and Bank as necessary. Similarly Progress Reports to both bodies will be prepared on the same schedule.

37. Once operating under the terms of the Grant Agreement between the Bank and the CKLN Foundation, the CKLN Foundation will operate on the basis of Financial Monitoring Reports (FMRs)<sup>6</sup> and be subject to Annual Audits. In all cases, standard Bank guidelines related to fiduciary responsibilities and oversight will apply.

38. The Bank will furnish the European Union with a Final Report within six months of the completion or termination of the arrangement.

## **VI. Benefits and Risks**

### **A. Benefits**

39. The benefits of the proposed arrangement include the continuing role of the Bank as an active participant in the CKLN. The CKLN offers the potential to not only align the significant number of donor activities working at the nexus of information and communications technologies and education, but to build regional ownership for these as key elements in the further integration of the Caribbean, necessary with the advent of the Caribbean Single Market and Economy (CSME).

40. In practice, the role of the Bank as convener of a Donor Steering Committee focusing on these issues combined with the high-level political support associated with the parallel governance framework of the CKLN, offers a relatively unique opportunity for rapid and appropriate progress in this sector. Similarly, this project is aimed at empowering and providing an enabling environment for others to fulfill their missions. These include regional private sector agencies with training needs (e.g., Financial Institutions), intra-TEI cooperation, vocational training, and international twinning and articulation arrangements. There is strong interest in the Region in unleashing this potential.

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<sup>6</sup> FMR to include: (a) a detailed narrative report setting out the status of Project execution and the progress in attaining its objectives; (b) a detailed report on the Project expenditures incurred during the period between the last withdrawal of Grant funds and the date of the withdrawal application in question, such report to be supported by evidence of payments made with such funds; and (c) a forecast of the expenditures to be incurred by the Recipient in the six-month period following the date of such application.



**B. Risks**

41. Table 1 outlines the perceived risks associated with this Project. A number of these concerns – notably those associated with TEI willingness to adopt new approaches, have been significantly and positively revised following the experience of the Pilot.

**Table 1 – Risks and Associated Minimization Measures**

Component	Risk	Risk Level	Risk Minimization Measure
I. Improving the Efficiency and Relevance of Tertiary Education Institutions	<ul style="list-style-type: none"> <li>Failure to network among education institutions (specialization)</li> </ul>	L	<ul style="list-style-type: none"> <li>Include direct incentives for providers to network in the project design</li> </ul>
	<ul style="list-style-type: none"> <li>Failure to develop / adopt TEI Business Plans</li> </ul>	M	<ul style="list-style-type: none"> <li>Participatory process builds on existing strategic planning</li> <li>Ministry of Education involved in Planning exercise</li> </ul>
	<ul style="list-style-type: none"> <li>Financial sustainability of TEIs and potential to take risk</li> </ul>	M	<ul style="list-style-type: none"> <li>Investment Triggers include financial policies (reliance on cost-effective delivery of education, e-learning)</li> </ul>
	<ul style="list-style-type: none"> <li>Low relevance of content developed under Project</li> </ul>	L	<ul style="list-style-type: none"> <li>Active involvement of the private sector (employer)</li> <li>Emphasis on <i>a-priori</i> and <i>ex-post</i> monitoring and evaluation of course quality and impact</li> <li>Project aligned with curriculum reform and accreditation efforts</li> </ul>
	<ul style="list-style-type: none"> <li>Failure on part of faculty/ students to embrace new approaches</li> </ul>	L	<ul style="list-style-type: none"> <li>Technical assistance program to raise faculty awareness and engagement</li> <li>Well-designed programs</li> <li>Emphasis on building capacity in region</li> <li>Emphasis on monitoring and evaluation of course quality and impact</li> </ul>
II. Establishing the Knowledge and Learning Network	<ul style="list-style-type: none"> <li>High cost of bandwidth</li> </ul>	L	<ul style="list-style-type: none"> <li>Alignment with development of CARIBNET</li> </ul>
	<ul style="list-style-type: none"> <li>Potential delays in rollout of CARIBNET</li> </ul>	M	<ul style="list-style-type: none"> <li>Strong Political Support and identified funding</li> </ul>
	<ul style="list-style-type: none"> <li>Poor maintenance of equipment in TEIs</li> </ul>	L	<ul style="list-style-type: none"> <li>Environmental conditioning (air/ electricity)</li> <li>Central IT Support / Advisory</li> <li>Low maintenance equipment</li> <li>IT staff training and networking</li> </ul>
III. Building Capacity Delivering Regional Programs and Services	<ul style="list-style-type: none"> <li>Lack of willingness to cooperate across borders</li> </ul>	L	<ul style="list-style-type: none"> <li>Clear incentives for cooperation and investment triggers</li> <li>On-going involvement of CARICOM</li> <li>Maintain identity of participating TEIs</li> </ul>
	<ul style="list-style-type: none"> <li>Regional /National accreditation mechanisms not satisfactorily</li> </ul>	M	<ul style="list-style-type: none"> <li>Encourage CARICOM to complete National and Regional mechanisms for</li> </ul>

	implemented		accreditation and engage these in the Project.
	<ul style="list-style-type: none"> <li>Sustainability of the CKLN Foundation Ltd</li> </ul>	L	<ul style="list-style-type: none"> <li>Acceptance by CARICOM Heads as Regional Public Good</li> </ul>
<b>1. Overall</b>		M	

Risk level: H: High, M: Medium, L: Low.

**VII. Issue of Potential Assistance to a Non-member of the Bank**

42. The Bank’s Articles of Agreement provide that “the primary purpose of the Bank is ‘to assist in the reconstruction and development of territories of *members*’” and requires that the Bank “use its resources and facilities ‘exclusively for the benefit of *members*.’”<sup>7</sup> The foregoing provisions have been interpreted as a mandate that generally restricts the Bank to only providing assistance to its members even in cases where the Bank’s only role has been to establish and administer a trust fund created with the funds of other donors.<sup>8</sup> Nevertheless, the Bank has encountered several cases<sup>9</sup> where it has been asked to provide assistance to non-members because such assistance would also benefit members and has therefore developed mechanisms to allow the Bank, in exceptional cases, to assist non-members while at the same time acting within the Bank’s mandate. In each of these cases, the benefits to Bank members of providing such assistance to non-members was identified and explained to the Executive Directors before such assistance was provided.<sup>10</sup> The Executive Directors approved such assistance based on their power to interpret the Bank’s Articles of Agreement and to therefore determine that that such assistance benefited the Bank and its members.<sup>11</sup>

43. In the case of the proposed Trust Fund, it is important to note that there are certain characteristics of the CKLN Foundation that could *potentially* create a situation where the Bank’s establishment and administration of the proposed Trust Fund could be interpreted as providing assistance to non-members of the Bank, specifically Cuba since it is a member of the CARIFORUM. Therefore, the Bank’s role in establishing and administering the proposed Trust Fund would require the prior approval of the Executive Directors in accordance with the interpretation of the Bank’s Articles of Agreement that is described in paragraph 42.<sup>12</sup> However, as of the date of this Memorandum, Cuba is not a member of the CKLN

<sup>7</sup> Legal Memorandum by the Acting Vice President and General Counsel entitled “World Bank Assistance to East Timor” dated September 30, 1999 (SecM099-666) (the “East Timor Legal Opinion”), pgs. 3 and 4 (citing Article I(i) and Article III, Section 1(a) of the IBRD’s Articles of Agreement and Article I and Article V, Section 1(a) of IDA’s Articles of Agreement).

<sup>8</sup> See *ibid.* See, also, Legal Memorandum by the Acting Vice President and General Counsel entitled “World Bank Assistance to Kosovo – A Legal Analysis” (R99-178, Annex 1) (the “Kosovo Legal Opinion”), pgs. 2 and 3.

<sup>9</sup> For example, general trust funds have been established to provide assistance to non-members for purposes considered beneficial to the members since the early 1990’s, including in trust funds for the former Soviet Union (1991), the West Bank and Gaza (1993), Bosnia and Herzegovina (1995), East Timor (1999), Kosovo (1999) and the Federal Republic of Yugoslavia (2001). Since 2002, the Bank also supports the Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM), which receives proposals from and may provide grants to non-member countries, under a Trustee Agreement.

<sup>10</sup> See East Timor Legal Opinion, pg. 4.

<sup>11</sup> See *ibid.*

<sup>12</sup> First, the CKLN Foundation’s Articles of Association make “any Ministry of Education/Higher Education or educational institution or educational community established in a CARIFORUM country that is involved in the introduction and/or use of ICT for the delivery of distance learning or education programs” eligible for membership in the CKLN Foundation and therefore a potential beneficiary of the activities of the CKLN Foundation and CKLN. (See Article 1.0 of the CKLN Foundation’s Articles of Association) As of the date of this Memorandum, Cuba, which is not a member of the Bank, is a member of CARIFORUM and would therefore fit within the eligibility requirement of the CKLN Foundation’s Articles of Association. Second, the CKLN Foundation’s Articles of Association provide that the CKLN Foundation’s governing “Council will consist of CARIFORUM Ministers of

Foundation<sup>13</sup> and has not taken any steps to apply for membership or even expressed an interest in becoming a member, so Cuba would not be receiving any apparent benefit from the proposed Trust Fund in the foreseeable future. Given that it is not a member of the CKLN Foundation, Cuba is not represented on the CKLN Foundation's Council or its Board of Directors and therefore has no role in the governance of the CKLN Foundation. Furthermore, the CKLN Foundation has indicated to the Bank that it currently intends to focus the activities to be financed with grants from the proposed Trust Fund on building its own capacity and on activities involving its existing members, which would again lessen the likelihood that Cuba or any other Caribbean states and territories that are non-members of the Bank would benefit from the assistance provided by the Bank's administration of the proposed Trust Fund.

44. To address the possibility that the membership of the CKLN Foundation and its activities could change during the life of the proposed Trust Fund, the decision was made to (a) seek the approval of the Executive Directors in accordance with the interpretation of the Bank's Articles of Agreement discussed in paragraph 42 of this Memorandum and based on the justifications provided in this Memorandum, and (b) restrict the activities financed from the proposed Trust Fund to those directly benefiting the CKLN Foundation and those benefiting members of the CKLN Foundation that are also members of the Bank through the legal agreements between the Bank and each of the EU and the CKLN Foundation.<sup>14</sup> Given that the legal agreements governing the proposed Trust Fund would prevent the provision of any direct benefits to non-members of the Bank, a non-member of the Bank could only benefit from the proposed Trust Fund as an indirect beneficiary of the activities focused on building the capacity of the CKLN Foundation.<sup>15</sup> Given the fact that Cuba is the only CARIFORUM member (as of the date of this Memorandum) that is not a member of the Bank and the few Caribbean countries that are not already members of the ACP that would be eligible for membership, Bank members would in all likelihood receive a significant proportion of the benefits of having the CKLN Foundation strengthened as an institution during the expected life of the proposed Trust Fund due to their disproportionate participation in the CKLN Foundation and the CKLN. The Executive Directors have previously approved cases where a Bank-administered trust fund finances capacity-building activities for a regional institution whose membership includes a small proportion of non-members of the Bank.<sup>16</sup> Even if non-members of the

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Education whose countries have subscribed to the CKLN" and that the Council will approve nominations for the CKLN Foundation's Board of Directors, which would mean that non-members of the Bank could be involved in the governance of the CKLN Foundation and the CKLN should they be admitted as members of the CKLN Foundation. (See Article 2.1 of the CKLN Foundation's Articles of Association) Third, various provisions of the CKLN Foundation's Memorandum of Association describe the goals, objectives and activities of the CKLN Foundation as broadly involving Caribbean countries, which implicitly suggests that the CKLN Foundation would not be precluded from carrying out activities that involved and/or benefited countries that were neither members of the CKLN Foundation nor members of the Bank.

<sup>13</sup> As of the date of this Memorandum, the membership of the Recipient is comprised of the following states in the Caribbean: Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, and Trinidad and Tobago.

<sup>14</sup> Two alternative approaches to structuring the Bank's role in the Project were considered in the interest of avoiding the potential issue of Bank assistance to a non-member, but were deemed to be too onerous or burdensome on the CKLN Foundation and the Project: (1) Requiring that the CKLN Foundation amend its organizational documents as a precondition to the Bank's administration of the proposed Trust Fund; and (2) Providing for the suspension of the proposed Trust Fund (or at least grants to the CKLN Foundation for its own capacity-building activities) in the event that a non-member of the Bank is admitted as a member of the CKLN Foundation at any point during the life of the proposed Trust Fund.

<sup>15</sup> As previously noted, the membership of the CKLN Foundation is currently comprised of states that are all members of the Bank.

<sup>16</sup> See the DGF Grant (DGF File: 306506-02) to the Iberoamerican Network for Quality Assurances in Higher Education (*Red Iberoamericana para la Evaluación y Acreditación de la Calidad de la Educación Superior*) ("RIACES") (arguing that the Bank should make the grant to RIACES because its activities would disproportionately benefit Bank members even though one of its members was an organization registered in Cuba); see, also, the IDA Grant to CARICOM for the Pan Caribbean Partnership Against HIV/AIDS Project (arguing a

Bank were to become members of the CKLN Foundation, the participation of both Bank members and non-members in the CKLN Foundation and the CKLN would potentially bring significant additional benefits to the Bank members because of the inclusion of the non-members' expertise and learning content in the overall program offering available to all participants in the CKLN. As a general matter, the activities to be financed through the proposed Trust Fund will provide significant benefits to Bank members who are located in the Caribbean because it will encourage the development a critical mass of relevant educational content and associated mechanisms to allow this educational content to be shared across the region based on demand.<sup>17</sup>

### **VIII Recommendations**

45. In light of the foregoing, I recommend that the Executive Directors, having found that the use of the Bank's resources and facilities to assist non-members of the Bank in the manner described in Section VII of this memorandum as Trustee of the Trust Fund for the CKLN Foundation and in the provision of services and advice to the CKLN Foundation would benefit the members of the Bank, approve the Bank serving as Trustee for the Trust Fund on the basis described in Sections III and V of this memorandum.

Paul Wolfowitz  
President

by Graeme Wheeler  
Managing Director

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disproportionate benefit for Bank members over non-Bank members and the indivisibility of the benefits when made to a regional institution).

<sup>17</sup> See, generally, the Bank publications cited in footnotes 2 and 3