ADDRESS AT THE

REGIONAL TRAINING PROGRAMME

BREAKFAST MEETING

Hyatt Regency Hotel, Trinidad

March 13, 2008

ADDRESS BY-

OSBORNE NURSE, CHAIRMAN
TRINIDAD AND TOBAGO SECURITIES & EXCHANGE COMMISSION

Good Morning Ladies and Gentlemen

I am pleased to welcome you to this Breakfast Meeting and public discussion that is being held in the context of our Regional Training Programme which we are conducting in association with the United States Securities and Exchange Commission with sponsorship and encouragement of the Caribbean Regional Technical Assistance Centre (CARTAC). When my colleague Ethiopis Tafara called in September or October and inquired about the interest of the TTSEC in jointly hosting this training programme with the USSEC, I am sure that he was surprised by the alacrity with which I accepted the suggestion – an alacrity that was matched by CARTAC's own response to our request for them to support this venture.

We were so pleased at the Commission to have this unique opportunity for regulatory training, that we made every attempt to make it available not only to securities regulators, but also to other financial sector regulators, as well as the legal authorities here in Trinidad and Tobago and throughout the Region. In this regard, the support of CARTAC has been critical in facilitating attendance by participants from the CARTAC Member Countries.

Our invitation to regional regulators has resulted in the participation of 30 persons from the region primarily with CARTAC funding, as well as 15 persons from agencies in Trinidad and Tobago excluding the Commission itself and including the Central Bank, the Ministry of Finance, the Financial Intelligence Unit, and the Office of the Director of Public Prosecutions. CARTAC has also funded the participation in this morning's panel by the securities regulators of Jamaica, Barbados and the Eastern Caribbean. We cannot of course thank CARTAC enough, or sufficiently.

Likewise, we cannot exhaust the ways of saying thanks to Ethiopis and his four colleagues from the USSEC and of course the USSEC itself for their generosity in

providing us with as highly skilled and experienced a team of regulators for this programme.

The participation by other regulatory agencies is in keeping with the theme of this morning's meeting which focuses on exploring effective ways for regulatory cooperation and collaboration. We believe that in order to do our job well we need to be efficient and effective in cooperating not only with other securities regulators, but with regulators in other segments of the financial sector such as central banks, FIUs and of course the civil and criminal legal systems. We are encouraged by the participation of all these groups.

We are also very encouraged by the participation this morning of so many representatives of the financial market who we believe have vested interests in understanding the processes for cooperation and collaboration that will be explored this morning. Indeed, recently in our jurisdiction we have seen several transactions that have involved more than one jurisdiction for their execution, and I am aware that the market is anxious to understand some of the concepts that may be identified here and more especially how they may be applied in practice.

Once Ethiopis and Robert Peterson have outlined the concept, our panellists will deal with its practical application in certain areas that we think are important to market participants. These are:

- The registration of securities, issuers and market actors;
- The integration of stock markets, particularly in respect of what is being called the Caribbean Exchange Network (CXN);
- The regulation of mergers, take-overs and other forms of cross border business combinations; and
- The management of issues relating to sovereignty and integrity of the individual jurisdictions (and their laws).

This meeting also presents one with a unique opportunity for at least a preliminary review of the recent competitive takeover bid for Barbados Shipping and Trading (BS&T), a company registered in Barbados and listed in both Barbados and Trinidad and Tobago, by two companies which are incorporated in Trinidad and Tobago. All three companies are also listed on the Stock Exchanges of both Trinidad and Tobago and Barbados.

The popular press as well as the other commentators have characterised this event in thinly veiled negative terms that suggest that the effort was poorly undertaken and supervised.

Let me take a few minutes to place the BS&T transaction into context. BS&T has (or had) over 3,200 shareholders who owned some 76 million shares. At the start of the merger or takeover transaction, Neal and Massy owned some 23% of the shares while a further 27 percent was owned by a number of institutions such as the National Insurance Board of Barbados, UTC, Sagicor Equity Fund and certain nominee accounts together representing potentially tens of thousands of pension or mutual fund beneficiaries. The outcome of this transaction was therefore of considerable interest to large numbers of ordinary investors. As far as can be determined, no individual shareholders held a personal interest of more than one half of one percent of the shares in issue.

At the start of the transaction, going back to March 2007 in the period immediately before the Neal and Massy offer to merge the two companies, BS&T shares were trading on the Barbados Stock exchange at approximately $BDS 5.00 per share, resulting in a market capitalisation of the company of approximately US$ 190 million (or TT$ 1.2 billion). At the close of the competitive transaction, based on the consideration of $BDS 8.50 per share market capitalization was approximately US$ 312 million or TT$ 1.9 billion. The transaction has therefore brought a gain to the thousands of shareholders and indirect beneficiaries of some TT$ 700 million – an increase in value of some 70% over an eight-month period.

During the same period the Trinidad and Tobago Composite Index increased by only 6%.

It seems a reasonable conclusion that the competitive bidding process has brought considerable benefit to the shareholders. There were however a number of issues that arose that may have made the transaction appear to be untidy. I will highlight some of those issues here but would like to first make three fundamental observations.

The first is that this was the first competitive cross-border transaction that was undertaken under the respective Takeover Regulations of Barbados and of Trinidad and Tobago. This was therefore a first test of the regulations and the issues that were raised occurred notwithstanding the fact that all parties made diligent efforts to observe the provisions of the laws. We commend the parties for their diligence in this regard.

The second observation that I wish to make is to emphasise that all of the so called "untidiness" arose from attempts – either by shareholders themselves or by the regulators - to ensure that shareholders interests were not trampled upon by any of the parties.

Thirdly, I would like to take this opportunity to assure the investing public that the issues that I am about to review are still subject to the active concern of the regulators and in the next few months arrangements will be made, in consultation with the market, to try to arrive at appropriate standards in all of these areas.

Let me quickly then summarise some of the so-called issues of untidiness.

Disclosure Standards

The first issue was that of the appropriate standard of disclosure that should be due to shareholders, in particular on the matter of valuation. This first arose when certain shareholders approached the Court for rulings on the adequacy of the valuation disclosures that were made in conjunction with the proposed merger in April/May 2007. With this intervention, the opportunity arose for another party to make a competitive or hostile bid and McAl sought to take advantage of that opportunity. Neal and Massy's response was to abandon its merger attempt and engage in the competitive bidding process.

It is interesting to note, however that the question of the standards of adequacy for disclosing valuation and perhaps other information has still not been adequately resolved and has and will continue to arise in other potential transactions. We shall return to this topic in another forum.

Market Conduct

During the transaction, Neal and Massy sought to tender previously owned shares that it had into the McAl offer, while purporting to keep its own offer open. At the same time, McAl announced the withdrawal of its offer in circumstances that are still subject to speculation. Thereafter, the regulator sought the Court's ruling on whether the conduct of both parties was appropriate and legal. In other jurisdictions, I am advised, some of this behaviour would have been considered unusual and frowned upon, even if not declared illegal. In such jurisdictions the parties would not have been expected to and would not have conducted the transaction in the manner observed in the BS&T transaction.

In this area also the regulators remain concerned about the need to implement a proper code of market conduct and in the coming months will engage all market participants in consultations designed to bring satisfactory standards of conduct to transactions such as these.

Regulatory Cooperation

The final area to which I will advert this morning is that of regulatory cooperation. As I indicated before, this was the first cross-border competitive bid that the regulators had had occasion to supervise. Two previous transactions engaged the regional regulators but both were friendly matters in which no party was seeking to take advantage of any difference that might exist in the law. In these cases, the parties requested, and the regulators agreed, that a single set of standards should be approved by all the regulators involved and observed by the parties, for the conduct of the transaction.

In the BS&T case no such request was made by any of the parties, and in the absence of formal understandings about regulatory cooperation in such circumstances, the regulators did not seek to impose such standards on the parties.

In the circumstances, parties sought to take advantage of the differences in the legislation in the two jurisdictions in pursuing their own interests. This, together with the conduct issues to which I have referred led to the application to the Court in Barbados for certain declarations, and in particular for it to determine how the application of law in one jurisdiction would affect investors in the other.

Resolution of the Issues

As important as it was for these matters to have been resolved by a Court ruling, the very process that was involved in doing so carried the risk of substantial loss of opportunity to the shareholders. In these circumstances, all the parties agreed to a voluntary settlement for the purposes of the transaction, and had that agreement sanctioned by the Barbados Court. Consequently, BS&T shareholders will have received at least a value of BDS$ 8.50 for their shares with a small increase in this number still being a possibility.

As regulators, however, we remain concerned about how we might better manage such cross-border issues. Achieving an agreement or understanding on a protocol for collaboration and cooperation is clearly an imperative.

Such a protocol would be part of the design of the road that we are seeking to build for companies and investors in the Region. It is clear that Regional as well as extra-Regional cross-border activity will in the future be an essential part of our capital markets landscape as companies seek to achieve the critical size and scope that will enhance their global productivity. Both the companies and the investors therefore need to know and understand the way and the rules of the road as they pursue their objectives.

Today's meeting represents our first step in working towards building a framework for the effective regulation of cross-border business combinations, even where legislative changes may be some time away.

Mr. Tafara and Mr. Peterson of the USSEC will begin by presenting us with a “model” if I am permitted to use such a term, while representatives of the regional regulators will give us some insights into practical possibilities for achieving this cooperation.
I also take the liberty of adding that we have already begun discussions with CARTAC about how they might support our efforts to build a robust framework within the shortest possible time.

I will now let the discussion begin, and promise to ensure that it is continued beyond today’s event.

I thank you.