

Commercial Division of the Court to positively Impact Saint Lucia's Competitiveness

The establishment of an efficient and effective Commercial Court will mark an important step in enhancing the business climate and thus the competitiveness of Saint Lucia. The Government of Saint Lucia has identified the establishment of a Commercial Division of the Court as a high priority reform which will ultimately impact Saint Lucia's overall development. In the 2013/2014 Budget Address, the Honourable Prime Minister endorsed the Division and partnered with the Compete Caribbean Program for funding support in its implementation.

This ongoing project is coordinated by the National Competitiveness & Productivity Council and the Ministry of Legal Affairs in collaboration with the Eastern Caribbean Supreme Court. The overall objective of this project is to reduce the burden on the court system, enhance the business environment as it relates to the enforcement of commercial contracts and thus providing an efficient and cost effective mechanism to rule on commercial matters in Saint Lucia.

The driving force behind the creation of the Division is to facilitate the resolution of business disputes in a quick and effective manner that ensures economic growth. The Division is expected to deliver an expeditious and cost effective mode of resolving disputes that directly affect the commercial and financial sectors in Saint Lucia.

During her address at the opening of law year in 2013, Chief Justice, Dame Janice Pereira stated "...The reality is that economic and social development depends on an effective legal system, which is just as pivotal to a country's growth and development as any financial institution."

The Chief Justice in her address highlighted the advantages that the Commercial Division of the Court has provided to the British Virgin Islands (BVI). It should be noted that the BVI has been cited for having an internationally well known Commercial Court. According to the Chief justice there is an important link between economic well being and the justice system that is sometimes overlooked.

Additionally, the establishment of this mechanism will increase Saint Lucia's competitiveness in the regional and international market. The World Economic Forum defines competitiveness as

“the set of institutions, policies and factors that determine the level of productivity of a country.”

Therefore, the establishment of a set of institutions in a country that support businesses results in increased productivity and competitiveness. Thus, the operations of a Commercial Division can impact the competitiveness of a country through the promotion of business and investment prospects. For example, officials at the Uganda's Investment Authority stated that the Commercial Court has assisted in the marketing of Uganda as an investment destination. Therefore, a Commercial Division may contribute to a healthy investment climate which encourages investment into the country thus leading to economic growth.

A healthy investment climate is essential in increasing investor confidence as well as business opportunities into a country. While it may seem that the business and legal sectors are two different entities, a weak commercial justice system cripples investors' willingness to bestow funds into a country. The Commercial Division in the British Virgin Islands has led to a rise in the number investors as well as increased use of the Division by international investors due to its efficiency of resolving disputes in a timely manner.

The ongoing economic downturn accompanied by high financial uncertainty has reinforced the need to establish efficient processes for commercial dispute resolution and the recovery of losses.

Additionally, financial institutions are less willing to lend to the private sector in the absence of an efficient legal system to settle commercial matters. This has the potential to limit the funding available for business expansion. This means that fewer businesses are able to expand and reach overseas markets and thus trade on the international market.

The establishment of the Commercial Division cannot be realised without the associated legislative amendments or changes. It is expected that amendments will be made to the Code of Civil Procedure and the Civil Code as well as other pieces of legislation pertinent to the operations of the Commercial Division.

To conclude, in the absence of a Commercial Court small businesses struggle to survive, disputes are settled through unofficial means and in the worse scenario investors take their business elsewhere. The establishment of a Commercial Court will make it easier, faster and less expensive to conduct business in Saint Lucia. The Court and the associated legislation should improve the enforcement of commercial contracts making it more efficient. This will impact the competitiveness of businesses in Saint Lucia and hence greater access to credit resulting in new business ventures, new customers which ultimately impacts on their level of competitiveness.