

THE CARIBBEAN COURT OF JUSTICE ACT, 2005

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REPUBLIC OF TRINIDAD AND TOBAGO

**Act No. 8 of 2005**

[L.S.]

AN ACT to implement the Agreement Establishing  
the Caribbean Court of Justice in its original  
jurisdiction and for related matters.

*[Assented to 16th March, 2005]*

Enactment      ENACTED by the Parliament of Trinidad and Tobago as follows:—

PART I  
PRELIMINARY

Short title and commencement      **1.** (1) This Act may be cited as the Caribbean Court of Justice Act, 2005.

(2) This Act comes into operation on such day as fixed by the President by Proclamation, appoint.

Interpretation      **2.** In this Act, unless the context otherwise requires—  
     “Agreement” means the Agreement Establishing the Caribbean Court of Justice, signed at Bridgetown, Barbados, on the 14th day of February, 2001, as amended by the Protocol to the Agreement Establishing the Caribbean Court of Justice Relating to the Juridical Personality and Legal Capacity of the Court signed at Montego Bay, Jamaica, on the 4th day of July, 2003, the texts of which are set out, respectively, in Parts A and B of the First Schedule;

First Schedule

“Commission” means the Regional Judicial and Legal Services Commission established by Article V of the Agreement;

“Contracting Party” means a Contracting Party within the meaning of Article I of the Agreement;

“Court” means the Caribbean Court of Justice established by paragraph 1(a) of Article III of the Agreement;

“Minister” means the Attorney General;

“party” means any party to proceedings before the Court;

“President” means the President of the Court;

“Privileges and Immunities Protocol” means the Protocol on the Status, Privileges and Immunities of the Caribbean Court of Justice and the Regional Judicial and Legal Services Commission signed at Montego Bay, Jamaica, on the 4th day of July, 2003, the text of which is set out in the Second Schedule;

Second Schedule

“Rules of Court” means the Rules of Court made pursuant to Article XXI(1) and Article XXV(7) of the Agreement;

“Treaty” means the Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy signed at Nassau, The Bahamas, on the 5th day of July, 2001.

3. The articles of the Agreement in so far as they relate to access to the Court and related proceedings and Rules of Court, shall have the force of law in Trinidad and Tobago.

Agreement to have force of law

## PART II

### JURISDICTION AND POWERS

4. (1) The Court shall exercise the original jurisdiction conferred on it by this Act in accordance with Part II of the Agreement.

Jurisdiction of the Court

(2) Subject to section 5(3) and section 8, decisions of the Court shall be final.

(3) The seal of the Court shall bear the inscription “The Caribbean Court of Justice” and shall be affixed to such documents as occasion may require.

Constitution  
of the Court  
in exercise  
of its original  
jurisdiction

**5.** (1) Subject to subsection (2), the Court, in the exercise of its original jurisdiction, shall be constituted by not less than three Judges and in every case, the number shall be an uneven number.

(2) The original jurisdiction of the Court may be exercised by a sole judge appointed in accordance with the Agreement.

(3) The decision of a sole judge under subsection (2) may be reviewed by a panel comprising not more than five Judges and may be varied, discharged or reversed by the Court upon an application by an aggrieved party under section 8.

### PART III

#### ORIGINAL JURISDICTION OF THE COURT

Original  
jurisdiction of  
the Court

**6.** (1) The Court in the exercise of its original jurisdiction shall—

- (a) have compulsory and exclusive jurisdiction to hear and determine disputes concerning the interpretation and application of the Treaty including—
  - (i) disputes between Contracting Parties;
  - (ii) disputes between Contracting Parties and the Caribbean Community;
  - (iii) referrals from national courts or tribunals of Contracting Parties; and
  - (iv) applications by persons in accordance with section 7;
- (b) at the request of a Contracting Party or the Caribbean Community, deliver advisory opinions concerning the interpretation and application of the Treaty.

(2) In the exercise of its original jurisdiction, the Court shall apply such rules of international law as may be applicable.

(3) Matters pertaining to the exercise of the original jurisdiction of the Court shall be brought before the Court by written application, in the manner prescribed by the Rules of Court.

(4) Where a court or tribunal is seised of an issue whose resolution involves a question concerning the interpretation or application of the Treaty, the court or tribunal shall, if it considers that a decision on the question is necessary to enable it to deliver judgment, refer the question to the Court for determination before delivering judgment.

(5) For the purpose of subsection (1), “national courts” means the Supreme Courts of the Member States of the Caribbean Community and includes the Eastern Caribbean Supreme Court.

7. (1) A person who is a citizen or resident of Trinidad and Tobago within the meaning of the Immigration Act may, with the special leave of the Court, be allowed to appear as a party in proceedings before the Court where—

Third party rights  
Chap. 18:01

(a) the Court has determined in any particular case that the Treaty intended that a right conferred by or under the Treaty on a Contracting Party shall enure to the benefit of such a person directly;

(b) the person has established that he has been prejudiced in respect of the enjoyment of the benefit referred to in paragraph (a);

- (c) the Contracting Party being entitled to espouse the claim in proceedings before the Court has—
  - (i) omitted or declined to espouse the claim; or
  - (ii) expressly agreed that the person may espouse the claim instead of the Contracting Party; and
- (d) the Court has found that the interest of justice requires that the person be allowed to espouse the claim.

(2) Where a Contracting Party, the Caribbean Community or a person considers that it or he has substantial interest of a legal nature which may be affected by a decision of the Court in exercise of its original jurisdiction, the Contracting Party, the Caribbean Community or the person, as the case may be, may apply to the Court to intervene and the Court shall decide whether to allow the application.

(3) In this section, “person” includes a company incorporated or registered under the Companies Act.

Act No. 35 of 1995

Revisions of  
judgments

**8. (1)** An application under section 5(3) for the revision of a judgment of the Court in the exercise of its original jurisdiction may be made only where—

- (a) there is the discovery of some fact of such nature as to be a decisive factor;
- (b) the fact was, when the judgment was given, unknown to the Court and to the party applying for the revision; and
- (c) the ignorance regarding the fact was not due to negligence on the part of the applicant.

(2) Proceedings for a revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

(3) The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

(4) The application for revision shall be made within six months of the discovery of the new fact.

(5) No application for revision may be made after the lapse of five years from the date of the judgment.

(6) Nothing in this section shall affect the rights of third parties that have accrued since the delivery of the judgment referred to in subsection (1).

**9.** The judgments of the Court in its original jurisdiction shall be final and constitute legally binding precedents for parties in proceedings before the Court. <sup>Binding precedent</sup>

## PART IV

### ADMINISTRATIVE PROVISIONS

**10.** (1) The Registrar of the Supreme Court shall be a Deputy Registrar of the Court. <sup>Appointment of Registrar as Deputy Registrar</sup>

(2) The Registry of the Supreme Court shall be designated a Sub-Registry of the Court pursuant to the Rules of the Court.

**11.** Attorneys-at-law, duly admitted to practise law in Trinidad and Tobago shall, subject to the powers of the Court, not be required to satisfy any other condition in <sup>Right of audience</sup>

order to practise before the Court, wherever the Court is sitting in exercise of its jurisdiction, and shall enjoy the privileges and immunities necessary for the independent exercise of their duties.

Status of the Court  
and the Regional  
Judicial and Legal  
Services Commission

**12.** (1) The Court and the Commission shall possess full juridical personality including, in particular, full capacity—

- (a) to contract;
- (b) to acquire and dispose of real property; and
- (c) to institute legal proceedings.

(2) In all legal proceedings, the Court and Commission shall be represented by the Registrar of the Court.

Composition of  
Commission

**13.** The Commission shall consist of the persons who shall be appointed in the manner and for periods set out in paragraphs (1) to (7) of Article V and paragraph (2) of Article VI of the Agreement.

Responsibility of  
Commission

**14.** (1) The Commission shall have responsibility for—

- (a) making appointments to the office of judge of the Court other than that of President;
- (b) appointing those officials and employees referred to in Article XXVII of the Agreement and determining the salary and allowances to be paid to such officials and employees;
- (c) the determination of the terms and conditions of service of officials and employees; and
- (d) the termination of appointments in accordance with the provisions of the Agreement.

(2) The Commission may by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under subsection (1)(b) and (c) to any one or more of its members or to the Registrar of the Court.

(3) The Commission shall, in accordance with the Regulations, exercise disciplinary control over Judges of the Court, other than the President, and over officials and employees of the Court.

(4) The proceedings of the Commission shall not be inquired into by any court of law or tribunal.

**15.** Rules of Court made pursuant to Article XXI of the Agreement shall have the force of law in Trinidad and Tobago and shall be published in the *Gazette*. Rules of Court

## PART V

### PRIVILEGES AND IMMUNITIES

**16.** Subject to this Act, the Articles set out in Part B of the First Schedule (being the Articles of the Privileges and Immunities Protocol) shall have the force of law in Trinidad and Tobago. Application of the Privileges and Immunities Protocol

**17.** If in any proceedings any question arises whether or not any person is entitled to any privileges or immunity under this Act, a certificate issued by or under the authority of the Minister responsible for Foreign Affairs stating any fact relating to that question shall be conclusive evidence of that fact. Certificate of Minister as conclusive evidence

## PART VI

### GENERAL

**18.** Any assessed contribution payable by Trinidad and Tobago in respect of the Court and the Commission pursuant to Article XXVIII of the Agreement shall be charged on and paid from the Consolidated Fund. Payment from Consolidated Fund

Amendment to the  
Schedules

**19. (1)** Where any amendment of the Agreement or the Privileges and Immunities Protocol is accepted by the Government, the Minister may by Order amend the relevant Schedule to this Act for the purpose of including therein the amendment so accepted.

(2) Any Order made under this section may contain such consequential, supplemental or ancillary provisions as appear to the Minister to be necessary or expedient for the purpose of giving effect to the amendment and, without prejudice to the generality of the foregoing, the Order may contain provisions amending references in this Act to specific provisions of the Agreement or the Privileges and Immunities Protocol as the case may be.

(3) Every Order made under this section shall be subject to negative resolution of Parliament.

(4) Where a Schedule to this Act is amended pursuant to this section any reference in this Act or any other law or instrument to the Agreement or the Privileges and Immunities Protocol may be, unless the context otherwise requires, be construed as a reference to the Agreement or the Privileges and Immunities Protocol, as the case may be, so amended.

## FIRST SCHEDULE

(Section 2)

### PART A

#### AGREEMENT ESTABLISHING THE CARIBBEAN COURT OF JUSTICE

##### THE CONTRACTING PARTIES,

CONVINCED that the Caribbean Court of Justice, (hereinafter referred to as “the Court”), will have a determinative role in the further development of Caribbean jurisprudence through the judicial process;

Convinced also of the desirability of entrenching the Court in their national Constitutions;

Aware that the establishment of the Court is a further step in the deepening of the regional integration process;

Recognizing the sovereignty of Members of the Caribbean Community;

Hereby agree as follows:

#### ARTICLE 1

##### USE OF TERMS

In this Agreement, unless the context otherwise requires:

“Commission” means the Regional Judicial and Legal Services Commission established by Article V;

“Conference” means the Conference of Heads of Government of Member States of the Caribbean Community;

“Contracting Party” means an entity referred to in Article II which has satisfied the requirements of membership and in relation to which this Agreement is in force;

“Heads of Government” means the Heads of Government of the Contracting Parties;

“President” means the President of the Court;

“Secretary-General” means the Secretary-General of the Caribbean Community;

“Treaty” means the Treaty establishing the Caribbean Community signed at Chaguaramas on 4th July, 1973 and any amendments thereto which take effect either provisionally or definitively.

#### PART I

##### MEMBERSHIP, ESTABLISHMENT OF THE COURT, THE COMMISSION AND RELATED MATTERS

#### ARTICLE II

##### MEMBERSHIP

This Agreement shall be open to—

- (a) Member States of the Caribbean Community;
- (b) any other Caribbean country which is invited by the Conference to become a Party to this Agreement.

## ARTICLE III

ESTABLISHMENT AND SEAT OF THE CARIBBEAN  
COURT OF JUSTICE

1. The Court is hereby established with:
  - (a) original jurisdiction in accordance with the provisions of Part II, and
  - (b) appellate jurisdiction in accordance with the provisions of Part III.
2. The decisions of the Court shall be final.
3. The Seat of the Court shall be in the territory of a Contracting Party as determined by a qualified majority of the Contracting Parties but, as circumstances warrant, the Court may sit in the territory of any other Contracting Party.
4. The Government of the Contracting Party in whose territory the Seat of the Court is situated shall provide suitable accommodation for the Seat of the Court and the offices of the Commission and shall conclude with the Court and the Commission an Agreement relating to the Seat of the Court and the offices of the Commission.
5. The Court shall have and use, as occasion may require, a seal having a device or impression with the inscription "The Caribbean Court of Justice".

## ARTICLE IV

## CONSTITUTION OF THE COURT

1. Subject to paragraph 2 of this Article, the Judges of the Court shall be the President and not more than nine other Judges of whom at least three shall possess expertise in international law including international trade law.
2. The number of Judges, excluding the President, may be increased by the Heads of Government, upon the recommendation of the Commission.
3. The Court shall be duly constituted as set out in Parts II and III and may sit in such number of divisions as may be directed by the President but every Judge of the Court may sit in any division.
4. The determination of any question before the Court shall be according to the opinion of the majority of the Judges of the Court hearing the case.

5. Notwithstanding the provisions of this Article, the President may appoint one or more judges to determine interlocutory matters.

6. The President shall be appointed or removed by the qualified majority vote of three-quarters of the Contracting Parties on the recommendation of the Commission.

7. The Judges of the Court, other than the President, shall be appointed or removed by a majority vote of all of the members of the Commission.

8. The President shall take precedence over all other Judges of the Court and the seniority of the other Judges of the Court shall be determined in accordance with the dates of their appointment.

9. The appointment of the President shall be signified by letter under the hand of the Chairman for the time being of the Conference acting on the advice of the Heads of Government and the appointment of any other Judge of the Court shall be signified by letter under the hand of the Chairman of the Commission.

10. A person shall not be qualified to be appointed to hold or to act in the office of Judge of the Court, unless that person satisfies the criteria mentioned in paragraph 11 and—

(a) is or has been for a period or periods amounting in the aggregate to not less than five years, a Judge of a court of unlimited jurisdiction in civil and criminal matters in the territory of a Contracting Party or in some part of the Commonwealth, or in a State exercising civil law jurisprudence common to Contracting Parties, or a court having jurisdiction in appeals from any such court and who, in the opinion of the Commission, has distinguished himself or herself in that office; or

(b) is or has been engaged in the practice or teaching of law for a period or periods amounting in the aggregate to not less than fifteen years in a Member State of the Caribbean Community or in a Contracting Party or in some part of the Commonwealth, or in a State exercising civil law jurisprudence common to Contracting Parties, and has distinguished himself or herself in the legal profession.

11. In making appointments to the office of Judge, regard shall be had to the following criteria: high moral character, intellectual and analytical ability, sound judgment, integrity, and understanding of people and society.

12. The Commission may, prior to appointing a Judge of the Court, consult with associations representative of the legal profession and with other bodies and individuals that it considers appropriate in selecting a Judge of the Court.

## ARTICLE V

### ESTABLISHMENT OF THE REGIONAL JUDICIAL AND LEGAL SERVICES COMMISSION

1. There is hereby established a Regional Judicial and Legal Services Commission which shall consist of the following persons:

- (a) the President who shall be the Chairman of the Commission;
- (b) two persons nominated jointly by the Organisation of the Commonwealth Caribbean Bar Association (OCCBA) and the Organisation of Eastern Caribbean States (OECS) Bar Association;
- (c) one chairman of the Judicial Services Commission of a Contracting Party selected in rotation in the English alphabetical order for a period of three years;
- (d) the Chairman of a Public Service Commission of a Contracting Party selected in rotation in the reverse English alphabetical order for a period of three years;
- (e) two persons from civil society nominated jointly by the Secretary-General of the Community and the Director General of the OECS for a period of three years following consultations with regional non-governmental organisations;
- (f) two distinguished jurists nominated jointly by the Dean of the Faculty of Law of the University of the West Indies, the Deans of the Faculties of Law of any of the Contracting Parties and the Chairman of the Council of Legal Education; and
- (g) two persons nominated jointly by the Bar or Law Associations of the Contracting Parties.

2. Where any person or body required to nominate a candidate for appointment to the Regional Judicial and Legal Services Commission in accordance with paragraph 1, fails to make such nomination within thirty (30) days of a written request in that behalf, the nomination shall be made jointly by the heads of the judiciaries of the Contracting Parties.

3. (1) The Commission shall have responsibility for—

- (a) making appointments to the office of Judge of the Court, other than that of President;
- (b) making appointments of those officials and employees referred to in Article XXVII and for determining the salaries and allowances to be paid to such officials and employees;
- (c) the determination of the terms and conditions of service of officials and employees; and
- (d) the termination of appointments in accordance with the provisions of this Agreement.

(2) The Commission shall, in accordance with the Regulations, exercise disciplinary control over Judges of the Court, other than the President, and over officials and employees of the Court.

4. The term of office of members of the Commission, other than the Chairman shall be three years, but such members shall be eligible for reappointment for another term of office.

5. The members of the Commission referred to in paragraph 1(b), (c), (d), (f) and (g) shall be appointed by letter under the hand of the President.

6. If the office of a member of the Commission, other than the Chairman is vacant or the holder thereof is unable to perform the functions of his office, a person may be appointed to perform the functions of that office for the unexpired term of the holder of the office or until the holder resumes office.

7. Subject to paragraph 13 of this Article, the Commission shall not be—

- (a) disqualified from the transaction of business by reason of any vacancy in its membership and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present or to participate in those proceedings;

(b) disqualified from the transaction of business nor its proceedings invalidated by reason of the non-receipt by a member of the Commission, of a notice for a meeting of the Commission.

8. The Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under paragraph 3(1)(b) and (c) of this Article to any one or more of its members or to the Registrar.

9. A member of the Commission, other than the Chairman may, by writing under the hand of that member, addressed to the Chairman of the Commission, resign from the Commission.

10. The Commission shall, no later than 31st March in every year, submit to the Heads of Government, an Annual Report of its work and operations during the previous year.

11. The Registrar of the Court shall perform the functions of Secretary of the Commission and shall be the Chief Administrative Officer of the Commission.

12. In the exercise of their functions under this Agreement, the members of the Commission shall neither seek nor receive instructions from any body or person external to the Commission.

13. A quorum for the transaction of business by the Commission shall consist of not less than six members of the Commission including the Chairman or, where the Deputy Chairman is presiding, the Deputy Chairman.

14. Subject to this Article, the Commission shall have power to regulate its own procedure.

## ARTICLE VI

### THE FIRST APPOINTMENT OF THE PRESIDENT AND MEMBERS OF THE COMMISSION

1. For the purposes of the first appointment of the President and Commissioners and notwithstanding the provisions of paragraph 6 of Article IV, the members of the Commission appointed pursuant to the Agreement shall make a recommendation for the appointment of the President.

2. Notwithstanding the provisions of paragraphs 4 and 5 of Article V:

(a) the term of office of the members of the Commission appointed in accordance with paragraph 1 of this Article shall be one year; and

(b) the members of the Commission mentioned in sub-paragraph (a) of this paragraph shall be appointed by letter under the hand of the heads of the judiciary of the Contracting Parties.

## ARTICLE VII

### LEGAL STATUS OF THE COMMISSION

1. The Commission shall possess full juridical personality including, in particular, full capacity to contract.
2. The privileges and immunities to be accorded the Commission and its members in the territories of the Contracting Parties shall be laid down in a Protocol to this Agreement.
3. The Contracting Parties undertake to make provision to ensure that the proceedings of the Commission shall not be enquired into in any Court.

## ARTICLE VIII

### ACTING APPOINTMENTS

1. If the office of President is vacant, or if the President is for any reason unable to perform the functions of that office, then, until some other person has been appointed to and has assumed the functions of that office or, as the case may be, until the President has resumed those functions, they shall be performed by the Judge of the Court who is most senior according to the date of his appointment and he shall be appointed by letter under the hand of the Chairman for the time being of the Conference.
2. When none of the other Judges is senior by appointment, the functions of President shall be performed by such one of the other Judges of the Court appointed by letter.
3. An appointment referred to in paragraph 2 shall be made in accordance with the advice of the Heads of Government tendered after consultations with the President and such other persons or bodies of persons as the Heads of Government may think fit.

4. If one of the Judges of the Court is acting as the President of the Court or if the office of a Judge of the Court, other than the President, is vacant or if such a Judge is for any reason unable to perform the functions of that office, then, until some other person has been appointed to act and has assumed the functions of that office or, as the case may be, until the Judge has resumed those functions, they shall be performed by a person qualified for appointment as a Judge of the Court to be appointed by the Commission by letter under the hand of the Chairman of the Commission.

5. The person appointed in accordance with paragraph 4 shall continue to perform the functions of the office until a person is appointed to the office and has assumed the functions thereof or, as the case may be, until the holder resumes office.

## ARTICLE IX

### TENURE OF OFFICE OF JUDGES

1. The office of a Judge of the Court shall not be abolished while there is a substantive holder thereof.

2. Subject to the provisions of this Article, the President shall hold office for a non-renewable term of seven years or until he attains the age of seventy-two years, whichever is earlier, except that the President shall continue in office, if necessary, for a further period not exceeding three months to enable him to deliver judgment or to do any other thing in relation to any proceedings part-heard by him.

3. Subject to the provisions of this Article, a Judge of the Court shall hold office until he attains the age of seventy-two years, except that he shall continue in office, if necessary, for a further period not exceeding three months to enable him to deliver judgment or to do any other thing in relation to any proceedings part-heard by him.

4. A Judge may be removed from office only for inability to perform the functions of his office, whether arising from illness or any other cause or for misbehaviour, and shall not be so removed except in accordance with the provisions of this Article.

5. (1) Subject to Article IV, paragraph 5, the President shall be removed from office by the Heads of Government on the recommendation of the Commission, if the question of the removal of the President has been referred by the Heads of Government to a tribunal and the tribunal has advised the Commission that the President ought to be removed from office for inability or misbehaviour referred to in paragraph 4.

(2) Subject to Article IV, paragraph 6, a Judge other than the President shall be removed from office by the Commission if the question of the removal of the Judge has been referred by the Commission to a tribunal; and the tribunal has advised the Commission that the Judge ought to be removed from office for inability or misbehaviour referred to in paragraph 4.

6. If at least three Heads of Government in the case of the President jointly represent to the other Heads of Government, or if the Commission decides in the case of any other Judge, that the question of removing the President or the Judge from office ought to be investigated, then—

- (a) the Heads of Government or the Commission shall appoint a tribunal which shall consist of a chairman and not less than two other members, selected by the Heads of Government or the Commission, as the case may be, after such consultations as may be considered expedient, from among persons who hold or have held office as a Judge of a court of unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth, or in a State exercising civil law jurisprudence common to Contracting Parties, or a court having jurisdiction in appeals from any such court; and
- (b) the tribunal shall enquire into the matter and advise the Heads of Government or the Commission, as the case may be, whether or not the President or the Judge ought to be removed from office.

7. The provisions of any law relating to the holding of commissions of inquiry in the Member State of the Caribbean Community where the inquiry is held shall apply as nearly as may be in relation to tribunals appointed under paragraph 6 of this Article or, as the context may require, to the members hereof as they apply in relation to Commissions or Commissioners appointed under that law.

8. If the question of removing the President or any other Judge of the Court from office has been referred to a tribunal under paragraph 6 of this Article, the Heads of Government in the case of the President, or the Commission, in the case of any other Judge of the Court, may suspend such Judge from performing the functions of his office, and any such suspension may at any time be revoked by the Heads of Government or the Commission, as the case may be, and shall in any case cease to have effect if the tribunal advises the Heads of Government or the Commission that the Judge ought not to be removed from office.

9. (1) The President may at any time resign the office of President by writing under the hand of the President addressed to the Chairman for the time being of the Conference.

(2) Any other Judge of the Court may at any time resign the office of Judge of the Court by writing under the hand of the Judge addressed to the Chairman of the Commission.

## ARTICLE X

### OATH OF OFFICE

1. A Judge of the Court shall not enter upon the duties of that office unless he has taken and subscribed the oath of office as set out in Appendix I to this Agreement.

2. The oath of office shall be taken and subscribed before the Head of State of any Contracting Party.

## PART II

### ORIGINAL JURISDICTION OF THE COURT

## ARTICLE XI

### CONSTITUTION OF THE COURT

1. The Court, in the exercise of its original jurisdiction, shall be duly constituted if it consists of not less than three judges being an uneven number of judges.

2. The judges referred to in paragraph 1 shall possess the expertise necessary for the Court to adjudicate the matter.

3. The deliberations of the Court shall be under the authority and control of a Chairman, who shall be the most senior of the judges appointed by the President.

4. Notwithstanding paragraph 1, the original jurisdiction of the Court may be exercised by a sole judge appointed by the Chairman.

5. The decision of a sole judge exercising jurisdiction under paragraph 4 may, on application of a Party aggrieved, be reviewed by a panel comprising not more than five judges.

## ARTICLE XII

## JURISDICTION OF THE COURT IN CONTENTIOUS PROCEEDING

1. Subject to the Treaty, the Court shall have exclusive jurisdiction to hear and deliver judgment on:

- (a) disputes between Contracting Parties to this Agreement;
- (b) disputes between any Contracting Parties to this Agreement and the Community;
- (c) referrals from national courts or tribunals of Contracting Parties to this Agreement;
- (d) applications by nationals in accordance with Article XXIV, concerning the interpretation and application of the Treaty.

2. For the purposes of this part, “national courts” includes the Eastern Caribbean Supreme Court.

## ARTICLE XIII

## ADVISORY OPINIONS OF THE COURT

1. The Court shall have exclusive jurisdiction to deliver advisory opinions concerning the interpretation and application of the Treaty.

2. Advisory opinions shall be delivered only at the request of Contracting Parties or the Community.

## ARTICLE XIV

## REFERRAL TO THE COURT

Where a national court or tribunal of a Contracting Party is seised of an issue whose resolution involves a question concerning the interpretation or application of the Treaty, the court or tribunal concerned shall, if it considers that a decision on the question is necessary to enable it to deliver judgment, refer the question to the Court for determination before delivering judgment.

## ARTICLE XV

## COMPLIANCE WITH JUDGMENTS OF THE COURT

Member States, Organs, Bodies of the Community or persons to whom a judgment of the Court applies, shall comply with that judgment.

## ARTICLE XVI

## COMPULSORY JURISDICTION OF THE COURT

1. Contracting Parties agree that they recognise as compulsory, *ipso facto* and without special agreement, the original jurisdiction of the Court provided for in Article XII.

2. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be determined by decision of the Court.

## ARTICLE XVII

## LAW TO BE APPLIED BY THE COURT IN THE EXERCISE OF ITS ORIGINAL JURISDICTION

1. The Court, in exercising its original jurisdiction under Article XII(*b*) and (*c*), shall apply such rules of international law as may be applicable.

2. The Court may not bring in a finding of *non liquet* on the ground of silence or obscurity of the law.

3. The provisions of paragraphs (1) and (2) shall not prejudice the power of the Court to decide a dispute *ex aequo et bono* if the parties so agree.

## ARTICLE XVIII

## INTERVENTION BY THIRD PARTIES

1. Should a Member State, the Community or a person consider that it has a substantial interest of a legal nature which may be affected by a decision of the Court in the exercise of its original jurisdiction, it may apply to the Court to intervene and it shall be for the Court to decide on the application.

2. Whenever the construction of a convention to which Member States and persons other than those concerned in the case are parties, is in question, the Registrar shall notify all such States and persons forthwith.

3. Every State or person so notified has the right to intervene in the proceedings; but if the right is exercised, the construction given by the judgment will be equally binding on all parties.

## ARTICLE XIX

## APPLICATION FOR INTERIM MEASURES

The Court shall have the power to prescribe if it considers the circumstances so require, any interim measures that ought to be taken to preserve the rights of a Party.

## ARTICLE XX

## REVISION OF JUDGMENTS OF THE COURT IN THE EXERCISE OF ITS ORIGINAL JURISDICTION

1. An application for the revision of a judgment of the Court in the exercise of its original jurisdiction may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and to the party claiming revision: provided always that such ignorance was not due to negligence on the part of the applicant.

2. Proceedings for a revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognising that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.

3. The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.

4. The application for revision shall be made within six months of the discovery of the new fact.

5. No application for revision may be made after the lapse of five years from the date of the judgment.

6. Nothing in this Article shall affect the rights of third parties accrued since the delivery of the judgment mentioned in paragraph 1.

## ARTICLE XXI

## RULES OF COURT GOVERNING ORIGINAL JURISDICTION

1. The President shall, in consultation with five other Judges of the Court selected by him, establish rules for the exercise of the original jurisdiction of the Court.

2. Without prejudice to the generality of the preceding subparagraph, Rules of Court may be made for all or any of the following purposes:

- (a) regulating the sittings of the Court, the selection of Judges for any purpose, and the period to be observed as a vacation in the Court and the transaction of business during any such vacation;

- (b) regulating the pleading, practice, procedure, execution of the process of the Court and the duties of the officers of the Court;
- (c) regulating matters relating to practice in the Court by Attorneys-at-law, Legal Practitioners or advocates and the representation of persons concerned in any proceedings in the Court;
- (d) providing for the summary determination of any matter which appears to the Court to be frivolous or vexatious or to be brought for the purpose of delay;
- (e) regulating matters relating to the costs and the taxation thereof, of proceedings in the Court;
- (f) providing for the delivery of judgments in an expeditious manner;
- (g) prescribing forms and fees in respect of proceedings in the Court;
- (h) prescribing the time within which any requirement of the rules of Court is to be complied with;
- (i) regulating or prescribing or doing any other thing which may be regulated, prescribed or done by rules of Court.

## ARTICLE XXII

### JUDGMENT OF THE COURT TO CONSTITUTE *STARE DECISIS*

Judgments of the Court shall be legally binding precedents for parties in proceedings before the Court unless such judgments have been revised in accordance with Article XX.

## ARTICLE XXIII

### ALTERNATIVE DISPUTE RESOLUTION

1. Each Contracting Party shall, to the maximum extent possible, encourage and facilitate the use of arbitration and other means of alternative dispute resolution for the settlement of international commercial disputes.

2. To this end, each Contracting Party shall provide appropriate procedures to ensure observance of agreements to arbitrate and for the recognition and enforcement of arbitral awards in such disputes.

## ARTICLE XXIV

*LOCUS STANDI* OF PRIVATE ENTITIES

Nationals of a Contracting Party may, with the special leave of the Court, be allowed to appear as parties in proceedings before the Court where—

- (a) the Court has determined in any particular case that the Treaty intended that a right conferred by or under the Treaty on a Contracting Party shall enure to the benefit of such persons directly;
- (b) the persons concerned have established that such persons have been prejudiced in respect of the enjoyment of the benefit mentioned in sub-paragraph (a) of this Article; and
- (c) the Contracting Party entitled to espouse the claim in proceedings before the Court has—
  - (i) omitted or declined to espouse the claim, or
  - (ii) expressly agreed that the persons concerned may espouse the claim instead of the Contracting Party so entitled; and
- (d) the Court has found that the interest of justice requires that the persons be allowed to espouse the claim.

## PART III

## APPELLATE JURISDICTION OF THE COURT

## ARTICLE XXV

## APPELLATE JURISDICTION OF THE COURT

1. In the exercise of its appellate jurisdiction, the Court is a superior Court of record with such jurisdiction and powers as are conferred on it by this Agreement or by the Constitution or any other law of a Contracting Party.

2. Appeals shall lie to the Court from decisions of the Court of Appeal of a Contracting Party as of right in the following cases:

- (a) final decisions in civil proceedings where the matter in dispute on appeal to the Court is of the value of not less than twenty-five thousand dollars Eastern Caribbean currency (EC\$25,000) or where the appeal involves directly or indirectly a claim or a question respecting property or a right of the aforesaid value;

- (b) final decisions in proceedings for dissolution or nullity of marriage;
- (c) final decisions in any civil or other proceedings which involve a question as to the interpretation of the Constitution of the Contracting Party;
- (d) final decisions given in the exercise of the jurisdiction conferred upon a superior court of a Contracting Party relating to redress for contravention of the provisions of the Constitution of a Contracting Party for the protection of fundamental rights;
- (e) final decisions given in the exercise of the jurisdiction conferred on a superior court of a Contracting Party relating to the determination of any question for which a right of access to the superior court of a Contracting Party is expressly provided by its Constitution;
- (f) such other cases as may be prescribed by any law of the Contracting Party.

3. An appeal shall lie to the Court with the leave of the Court of Appeal of a Contracting Party from the decisions of the Court of Appeal in the following cases:

- (a) final decisions in any civil proceedings where, in the opinion of the Court of Appeal, the question involved in the appeal is one that by reason of its great general or public importance or otherwise, ought to be submitted to the Court; and
- (b) such other cases as may be prescribed by any law of the Contracting Party.

4. Subject to paragraph 2, an appeal shall lie to the Court with the special leave of the Court from any decision of the Court of Appeal of a Contracting Party in any civil or criminal matter.

5. Nothing in this Article shall apply to matters in relation to which the decision of the Court of Appeal of a Contracting Party is, at the time of the entry into force of the Agreement pursuant to the Constitution or any other law of that Party, declared to be final.

6. The Court shall, in relation to any appeal to it in any case, have all the jurisdiction and powers possessed in relation to that case by the Court of Appeal of the Contracting Party from which the appeal was brought.

7. (1) The President shall in consultation with five other Judges of the Court selected by him, make Rules of Court for regulating the practice and procedure of the Court in exercise of the appellate jurisdiction conferred on the Court and, in relation to appeals brought before the Court, the practice and procedure of any court in respect of such appeals.

(2) Without prejudice to the generality of the preceding sub-paragraph, Rules of Court may be made for all or any of the following purposes:

- (a) regulating the sittings of the Court, the selection of Judges for any purpose, and the period to be observed as a vacation in the Court and the transaction of business during any such vacation;
- (b) regulating the pleading, practice, procedure, execution of the process of the Court and the duties of the officers of the Court;
- (c) regulating matters relating to practice in the Court by Attorneys-at-law or Legal Practitioners and the representation of persons concerned in any proceedings in the Court;
- (d) prescribing the cases in which, and the conditions upon which an appellant in a criminal appeal to the Court shall be entitled to be present at the hearing of the appeal;
- (e) providing for the summary determination of any appeal which appears to the Court to be frivolous or vexatious or to be brought for the purpose of delay;
- (f) regulating matters relating to the costs and the taxation thereof, of proceedings in the Court;
- (g) providing for the delivery of judgments in an expeditious manner;
- (h) prescribing forms and fees in respect of proceedings in the Court;
- (i) prescribing the time within which any requirement of the rules of Court is to be complied with;
- (j) regulating or prescribing or doing any other thing which may be regulated, prescribed or done by rules of Court.

## PART IV

## ENFORCEMENT, FINANCIAL AND FINAL PROVISIONS

## ARTICLE XXVI

## ENFORCEMENT OF ORDERS OF THE COURT

The Contracting Parties agree to take all the necessary steps, including the enactment of legislation to ensure that—

- (a) all authorities of a Contracting Party act in aid of the Court and that any judgment, decree, order or sentence of the Court given in exercise of its jurisdiction shall be enforced by all courts and authorities in any territory of the Contracting Parties as if it were a judgment, decree, order or sentence of a superior court of that Contracting Party;
- (b) the Court has power to make any order for the purpose of securing the attendance of any person, the discovery or production of any document, or the investigation or punishment of any contempt of court that any superior court of a Contracting Party has power to make as respects the area within its jurisdiction.

## ARTICLE XXVII

## OFFICIALS AND EMPLOYEES OF THE COURT

1. There shall be a Registrar of the Court, Deputy Registrars and other officials and employees of the Court as the Commission may consider necessary. The holders of those offices shall be paid such salaries and allowances and shall have such other terms and conditions of service as may, from time to time, be determined by the Commission.

2. With the concurrence of the competent authority of a Contracting Party, the Commission may appoint the Registrar of a superior court in the territory of that Contracting Party to be a Deputy Registrar of the Court.

3. The Commission may, by directions in writing and subject to such condition as it thinks fit, delegate any of its powers under paragraph 1 to any one or more of its members or to the Registrar of the Court.

4. For the purposes of paragraph 2 of this Article, “competent authority” means the authority vested with power to make appointments to the office of Registrar of a superior court and to exercise disciplinary control over persons holding or acting in that office.

## ARTICLE XXVIII

## FINANCIAL PROVISIONS

1. The expenses of the Court and of the Commission, including the cost of the maintenance of the Seat of the Court and the remuneration and allowances and other payments referred to in Article XXVII and this Article, shall be borne by the Contracting Parties in such proportions as may be agreed by the Contracting Parties. The assessed contributions to be paid by a Contracting Party shall be charged by law on the Consolidated Fund or public revenues of that Contracting Party.

2. (1) Subject to this Agreement and with the approval of the Conference, the Commission shall determine the terms and conditions and other benefits of the President and other Judges of the Court.

(2) The salaries and allowances referred to in sub-paragraph 1 shall be set out in Appendix II to this Agreement.

(3) Notwithstanding the provisions of Article XXXII, the Commission may, with the approval of the Conference, make regulations to amend Appendix II.

3. The salaries and allowances payable to the President and the other Judges of the Court and their other terms and conditions of service shall not be altered to their disadvantage during their tenure of office. For the purposes of this paragraph, in so far as the terms and conditions of service of any Judge of the Court depend upon the option of that Judge, the terms for which that Judge opts shall be taken to be more advantageous to that Judge than any other terms and conditions for which the Judge might have opted.

4. There shall be paid to members of the Commission, other than the Chairman, the actual travelling expenses and subsistence allowance at such rate per day as the Heads of Government may, from time to time, decide for the purpose of performing official duties as a member of the Commission.

## ARTICLE XXIX

## RIGHT OF AUDIENCE

Attorneys-at-law, legal practitioners or advocates duly admitted to practise law in the courts of a Contracting Party shall, subject to the powers of the Court, not be required to satisfy any other condition in order to practise before the Court wherever the Court is sitting in exercise of its jurisdiction and they shall enjoy the privileges and immunities necessary for the independent exercise of their duties.

## ARTICLE XXX

## PRIVILEGES AND IMMUNITIES

The privileges and immunities to be recognised and granted by the Contracting Parties to the Judges and officers of the Court necessary to protect their independence and impartiality shall be laid down in a Protocol to this Agreement.

## ARTICLE XXXI

## REGULATIONS

The Commission may make Regulations—

- (a) governing the appointment, discipline, termination of employment and other terms and conditions of service and employment for—
  - (i) Judges, other than the President; and
  - (ii) officials and employees of the Court;
- (b) prescribing the procedure governing the conduct of disciplinary proceedings;
- (c) generally giving effect to this Agreement.

## ARTICLE XXXII

## AMENDMENT

1. This Agreement may be amended by the Contracting Parties.
2. Every amendment shall be subject to ratification by the Contracting Parties in accordance with their respective constitutional procedures and shall enter into force one month after the date on which the last Instrument of ratification or accession is deposited with the Secretary-General (hereinafter in this Agreement referred to as “the Depository”).

## ARTICLE XXXIII

## SIGNATURE

This Agreement is open for signature by any of the States or countries referred to in Article II.

## ARTICLE XXXIV

## RATIFICATION

This Agreement shall be subject to ratification by the signatory countries in accordance with their respective constitutional procedures. Instruments of ratification shall be deposited with the Depository who shall transmit certified copies to the Government of each Contracting Party.

## ARTICLE XXXV

## ENTRY INTO FORCE

This Agreement shall enter into force upon the deposit of Instruments of Ratification or Accession in accordance with Article XXXIV, by at least three Member States of the Caribbean Community.

## ARTICLE XXXVI

## ACCESSION

1. Any country to which paragraph (b) of Article II applies may accede to this Agreement and become a Contracting Party on such terms and conditions as the Conference may decide.

2. Instruments of Accession shall be deposited with the Depositary.

## ARTICLE XXXVII

## WITHDRAWAL

1. A Contracting Party may withdraw from this Agreement by giving three years' notice in writing to the Depositary who shall promptly notify the other Contracting Parties accordingly and the withdrawal shall take effect five years after the date on which the notice has been received by the Depositary, unless the Contracting Party before the withdrawal becomes effective notifies the Depositary in writing of the cancellation of its notice of withdrawal.

2. A Contracting Party that withdraws from this Agreement undertakes to honour any financial or other obligations duly assumed as a Contracting Party; this includes any matter relating to an appeal filed before withdrawal becomes effective.

## ARTICLE XXXVIII

## IMPLEMENTATION

The Contracting Parties shall take all necessary action, whether of a legislative, executive or administrative nature, for the purpose of giving effect to this Agreement. Such action shall be taken as expeditiously as possible, and the Secretary-General shall be informed accordingly.

## ARTICLE XXXIX

## RESERVATIONS

A reservation may be entered to Article XXV of this Agreement with the consent of the Contracting Parties.

IN WITNESS WHEREOF the undersigned duly authorised in that behalf by their respective Governments have executed this Agreement.

Done at \_\_\_\_\_ on the \_\_\_\_\_ day  
of \_\_\_\_\_, 2001.

Signed by \_\_\_\_\_  
for the Government of Antigua and Barbuda on the \_\_\_\_\_ day  
of \_\_\_\_\_, 2001  
at \_\_\_\_\_

Signed by \_\_\_\_\_  
for the Government of Barbados on the \_\_\_\_\_ day of \_\_\_\_\_, 2001  
at \_\_\_\_\_

Signed by \_\_\_\_\_  
for the Government of Belize on the \_\_\_\_\_ day of \_\_\_\_\_, 2001  
at \_\_\_\_\_

Signed by \_\_\_\_\_  
for the Government of the Commonwealth of Dominica on the  
\_\_\_\_\_ day of \_\_\_\_\_, 2001  
at \_\_\_\_\_

Signed by \_\_\_\_\_  
for the Government of Grenada on the \_\_\_\_\_ day of \_\_\_\_\_, 2001  
at \_\_\_\_\_

Signed by \_\_\_\_\_  
for the Government of the Co-operative Republic of Guyana on  
the \_\_\_\_\_ day of \_\_\_\_\_, 2001  
at \_\_\_\_\_

Signed by \_\_\_\_\_  
for the Government of Haiti on the \_\_\_\_\_ day of \_\_\_\_\_, 2001  
at \_\_\_\_\_



## APPENDIX I

I, ..... do hereby swear (or solemnly affirm) that I will faithfully exercise the office of President/Judge of the Caribbean Court of Justice without fear or favour, affection or ill-will and in accordance with the Code of Judicial Conduct.

[so help me God (to be omitted in affirmation)].

## APPENDIX II

## Annual Salary

1. (a) The President of the Court — [EC\$ ]
- (b) Any other Judge of the Court — [EC\$ ]
2. Judges of the Court shall be paid superannuation benefits in respect of their service as Judge of the Court as follows:
  - (a) less than 5 years' service — a gratuity of 20 per cent of the Judge's pensionable emoluments at the time of retirement for every year of service;
  - (b) 5 to 10 years' service — a monthly pension equivalent to two-thirds of the Judge's monthly pensionable emoluments at the time of retirement;
  - (c) more than 10 years' service — a monthly pension equivalent to the Judge's monthly pensionable emoluments at the time of retirement.
3. Every Judge of the Court shall be paid a monthly allowance for housing to be determined by the Heads of Government of the Contracting Parties in respect of the Judge's occupation of a fully furnished residence.
4. Every Judge shall be paid a monthly allowance to be determined by the Heads of Government of the Contracting Parties to meet the expenses incurred by the Judge in respect of the employment of a chauffeur.
5. Every Judge shall be paid a travelling allowance to be determined by the Heads of Government of the Contracting Parties in respect of the use by the Judge of a motor car owned by the Judge on official duty, subject to the conditions of payment as determined by the Heads of Government of the Contracting Parties.
6. Every Judge of the Court shall be provided with telephone services at the Judge's residence, without charge, except for unofficial overseas telephone calls.
7. Every Judge of the Court shall be paid a subsistence allowance to be determined by the Heads of Government of the Contracting Parties for each day on which the Judge is on official duty in the territory of a Contracting Party other than that of the seat of the Court.

## PART B

PROTOCOL TO THE AGREEMENT ESTABLISHING  
THE CARIBBEAN COURT OF JUSTICE RELATING TO  
THE JURIDICAL PERSONALITY AND LEGAL CAPACITY  
OF THE COURT

The Contracting Parties:

NOTING that the Agreement Establishing the Caribbean Court of Justice (hereinafter referred to as “the Agreement”) entered into force on 23 July 2002;

Conscious that Article VI of the Agreement confers on the Regional Judicial and Legal Services Commission (hereinafter referred as “the Commission”) full juridical personality, including, in particular, full capacity to contract;

Aware that the Government of Trinidad and Tobago, the Contracting Party in whose territory the Seat of the Caribbean Court of Justice (hereinafter referred to as “the Court”) is situated, in accordance with Article III(4) of the Agreement, intends to conclude an Agreement relating to the Seat of the Court and the Headquarters of the Commission;

Desirous of conferring on the Court full juridical personality and legal capacity,

Have Agreed as follows:

## ARTICLE I

## JURIDICAL PERSONALITY AND LEGAL CAPACITY OF THE COURT

1. The Court shall have full juridical personality.
2. Each Contracting party to the Agreement shall, in its territory, accord to the Court the most extensive legal capacity accorded to legal persons under its municipal law.
3. In any legal proceedings, the Court shall be represented by the Registrar of the Court.
4. Each Contracting Party to the Agreement shall take such action as is necessary to make effective in its territory the provisions of this Article and shall promptly inform the Secretary-General of the Caribbean Community of such action.

## ARTICLE II

## PRIVILEGES AND IMMUNITIES OF THE COURT AND THE COMMISSION

The President of the Court shall conclude with the Government of Trinidad and Tobago an Agreement relating to the Seat of the Court and the Headquarters of the Commission setting out, *inter alia*:

- (a) the terms respecting the facilitation of the administration and operation of the Court and the Commission; and
- (b) the privileges and immunities to be accorded to the Commission and its members, the Court, the Judges and officers of the Court, parties, their counsel and other persons required to appear before the Court.

## ARTICLE III

## RELATIONSHIP BETWEEN THIS PROTOCOL AND THE AGREEMENT

This Protocol shall be read as one with the Agreement.

## ARTICLE IV

## SIGNATURE

This Protocol shall be open for signature by the Contracting Parties to the Agreement.

## ARTICLE V

## ENTRY INTO FORCE

This Protocol shall enter into force on signature by the Contracting Parties to the Agreement.

## ARTICLE VI

## ACCESSION

1. Any Contracting Party to the Agreement may accede to this Protocol.
2. Instruments of accession shall be deposited with the Secretary-General who shall transmit certified copies to the Governments.



Signed by \_\_\_\_\_ for the Government of St. Kitts and  
Nevis on the \_\_\_\_\_ day of \_\_\_\_\_ 2003  
at \_\_\_\_\_

Signed by \_\_\_\_\_ for the Government of Saint Lucia on  
the \_\_\_\_\_ day of \_\_\_\_\_ 2003  
at \_\_\_\_\_

Signed by \_\_\_\_\_ for the Government of St. Vincent and  
the Grenadines on the \_\_\_\_\_ day of \_\_\_\_\_ 2003  
at \_\_\_\_\_

Signed by \_\_\_\_\_ for the Government of Republic of  
Suriname on the \_\_\_\_\_ day of \_\_\_\_\_ 2003  
at \_\_\_\_\_

Signed by \_\_\_\_\_ for the Government of Trinidad and Tobago  
the \_\_\_\_\_ day of \_\_\_\_\_ 2003  
at \_\_\_\_\_

## SECOND SCHEDULE

*(Sections 2 and 16)*PROTOCOL ON THE STATUS, PRIVILEGES AND  
IMMUNITIES OF THE CARIBBEAN COURT OF  
JUSTICE AND THE REGIONAL JUDICIAL AND  
LEGAL SERVICES COMMISSION

## PREAMBLE

The Contracting Parties,

NOTING that the Agreement Establishing the Caribbean Court of Justice entered into force on 23 July 2002;

Recognising that paragraph 2 of Article VII of the Agreement Establishing the Caribbean Court of Justice (hereinafter referred to as “the Agreement”) provides that the privileges and immunities to be accorded the Regional Judicial and Legal Services Commission shall be laid down in a Protocol to the Agreement;

Conscious that Article XXX of the Agreement also provides that the privileges and immunities to be recognised and granted by the Contracting Parties thereto to the judges and officers of the Court necessary to protect their independence and impartiality, shall be laid down in a Protocol to the Agreement; and

Desirous of establishing conditions to safeguard the independence and integrity of the judges and officers of the Caribbean Court of Justice (hereinafter referred to as “the Court”) and the Members of the Regional Judicial and Legal Services Commission,

Have agreed as follows:

## ARTICLE I

## USE OF TERMS

In this Protocol, unless the context otherwise requires:

“archives of the Court or the Commission” includes the records, correspondence, documents, manuscripts, photographs, slides, films, sound recordings and electronic storage devices belonging to or held by the Court or the Commission;

“Commission” means the Regional Judicial and Legal Services Commission established by Article V of the Agreement;

“competent Authorities” means national, regional or local authorities of the Contracting Parties as may be appropriate in the context and in the laws of the Contracting Parties;

“Conference” means the Conference of Heads of Government of the Member States of the Caribbean Community;

“Contracting Party” means a state in relation to which this Protocol is in force;

“counsel” means a person qualified to conduct proceedings before the Court on behalf of another;

“the Court” means the Caribbean Court of Justice established by Article III of the Agreement;

“the Government” means the Government of a Contracting Party to this Protocol;

“officers of the Court” means the Registrar of the Court and the Deputy Registrar;

“the President” means the President of the Court;

“property” means all forms of property, including funds and assets belonging to or held or administered by the Court or the Commission and all income accruing to the Court or the Commission;

“Registrar” means the Registrar of the Court;

“Secretary-General” means the Secretary-General of the Caribbean Community

## ARTICLE II

### PROPERTY, FUNDS AND ASSETS OF THE COURT AND THE COMMISSION

1. The Court, the Commission, their property and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case such immunity has been expressly waived in accordance with Article X. No waiver of immunity shall extend to any measure of execution.

2. The property of the Court and the Commission, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference whether by executive, administrative or judicial action.

## ARTICLE III

## PREMISES OF THE COURT AND THE COMMISSION

1. The premises occupied by the Court or the Commission shall be inviolable.

2. The President may make regulations relating to the premises mentioned in paragraph 1 of this Article for the purpose of establishing therein conditions necessary for the full execution of the functions of the Court or the Commission, as the case may be.

3. Officials of the Government shall not enter the premises referred to in this Article to perform any official duties therein except with the consent of and under conditions agreed by the President. However, in case of fire or other emergency requiring prompt protective action or in the event that officials of the Government have reasonable cause to believe that such an emergency has occurred, the consent of the President to entry on the premises by the officials of the Government shall be presumed if the President cannot be reached in time.

## ARTICLE IV

## ARCHIVES OF THE COURT AND THE COMMISSION

The archives of the Court and the Commission, and in general all documents belonging to or held by the Court or the Commission, shall be inviolable wherever located.

## ARTICLE V

## EXEMPTION FROM FOREIGN EXCHANGE CONTROLS

1. Without being restricted by financial controls, regulations or moratoria of any kind, the Court and the Commission shall be entitled for their official use only:

- (a) to purchase from authorised dealers, hold and make use of negotiable currencies, operate foreign currency and external accounts and purchase through authorised dealers, hold and make use of funds and securities;
- (b) to freely transfer their funds, securities and foreign currencies to or from the territory of any Contracting Party and to convert any currency held by them into any other currency.

2. The Court and the Commission, in exercising their rights under paragraph 1 of this Article, shall pay due regard to any representations made by the Government and shall give effect to such representations so far as this is possible without detriment to the interests of the Court or the Commission.

## ARTICLE VI

EXEMPTION FROM TAXES, CUSTOMS DUTIES AND IMPORT OR  
EXPORT DUTIES

1. The Court and the Commission shall be exempt from:
  - (a) any form of direct or indirect taxation, but the Court or the Commission shall not claim exemption from taxes which are, in fact, no more than charges for public utility services;
  - (b) customs duties and prohibitions and restrictions on imports in respect of articles imported or exported by the Court or the Commission for their official use, subject to the condition that articles imported under such exemption shall not be sold within the territory of the Contracting Party except under conditions agreed to with the Government;
  - (c) customs duties and other levies and prohibitions and restrictions in respect of the import, sale and export of their publications.

2. For the purposes of this Article, “indirect taxation” means airport departure or travel tax, travel ticket tax, hotel and restaurant taxes, customs and excise duties, consumption tax, stamp duties, withholding tax on interest, value added tax, finance charges and imposts with equivalent effect.

## ARTICLE VII

## FACILITIES IN RESPECT OF COMMUNICATIONS

1. The Court and the Commission shall, in relation to their official communications, enjoy in the territory of the Contracting Party, treatment no less favourable than that accorded by the Government to any other international organisation.
2. The Court and the Commission shall be immune from censorship of their official correspondence and official communications.
3. The Court and the Commission shall have the right to use codes and to despatch and receive correspondence whether by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.
4. Nothing in this Article shall be construed so as to preclude the adoption of appropriate security measures in the interest of the Government concerned.

## ARTICLE VIII

JUDGES AND OFFICERS OF THE COURT AND MEMBERS OF  
THE COMMISSION

1. Judges and officers of the Court and members of the Commission engaged in the business of the Court or the Commission, as the case may be, in the territory of a Contracting Party, shall enjoy:

- (a) immunity from legal process in respect of words spoken or written and all acts done by them in their official capacity; such immunity shall continue notwithstanding that the persons concerned have ceased to exercise their functions with the Court or the Commission;
- (b) immunity from personal arrest or detention in relation to acts performed by them in their official capacity;
- (c) inviolability of all papers, documents and materials related to the work of the Court or the Commission as the case may be;
- (d) exemption from immigration restrictions, alien registration requirements and national service obligations;
- (e) the same protection and repatriation facilities in times of international crisis as are accorded representatives of foreign governments on temporary official missions;
- (f) the right, for the purpose of all communications with the Court or the Commission, as the case may be, to use codes and to despatch or receive papers, correspondence or other official material by courier or in sealed bags;
- (g) the same privileges and facilities in respect of currency and exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
- (h) immunity from inspection and seizure of personal and official baggage except in cases where the person is caught in *flagrante delicto*. In such cases, the competent authorities shall immediately inform the Registrar or other appropriate official of the Court. Inspection of personal baggage shall be conducted in the presence of the person concerned or his authorised representative, and in the case of official baggage, in the presence of a duly authorised representative of the Registrar;
- (i) exemption from any form of direct taxation on salaries, remuneration and allowances paid by the Court or the Commission and from customs duties on imports in respect of articles imported for personal use, subject to the condition that articles imported under such exemption shall not be sold within the territory of the Contracting Party except under conditions determined by the Government.

## ARTICLE IX

## COUNSEL APPEARING IN PROCEEDINGS BEFORE THE COURT

1. Counsel appearing in proceedings before the Court while present in the territory of a Contracting Party shall, in the performance of their functions connected with such proceedings, enjoy:

- (a) inviolability of all papers, documents and materials relating to the proceedings before the Court;
- (b) immunity from personal arrest or detention and legal process in relation to words spoken or written or acts performed by them in relation to proceedings before the Court;
- (c) exemption from immigration restrictions, alien registration requirements and national service obligations;
- (d) the same privileges and facilities in respect of currency and exchange restrictions in relation to proceedings before the Court as are accorded to representatives of foreign governments on temporary official missions.

2. The immunity mentioned in paragraph 1(a) and (b) shall continue although the person entitled is no longer conducting proceedings before the Court.

3. The privileges, immunities and facilities mentioned in this Article are only intended to assist Counsel in the efficient representation of clients in proceedings before the Court and shall not be employed to circumvent applicable laws and regulations of the Government.

## ARTICLE X

## CO-OPERATION WITH COMPETENT AUTHORITIES

1. Privileges and immunities are recognised and granted by this Protocol in the interest of the Court and the Commission and not for the personal benefit of persons entitled thereto. The Conference in the case of the President and the President in the case of other persons entitled thereto, shall have the right to waive such privileges and immunities whenever in their opinion the enjoyment of the privileges and immunities would impede the course of justice and could be waived without prejudice to the interests of the Court or the Commission.

2. The President and the Registrar, as the case may be, shall co-operate at all times with the competent authorities to facilitate the proper administration of justice, secure the observance of the laws and regulations of the Government and to avoid the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Protocol.

3. Without prejudice to the privileges and immunities accorded by this Protocol, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the Government and not to interfere in the internal affairs of the Contracting Party.

4. If the Government considers that an abuse has occurred in the enjoyment of any privilege or immunity conferred by this Protocol, the Registrar shall, at the request of the Government, consult with the competent authorities to determine whether such an abuse has occurred. If such consultations fail to achieve results satisfactory to the Registrar and the Government, the issue shall be settled in accordance with the procedure laid down in Article XII.

## ARTICLE XI

### FACILITATION OF TRAVEL

1. Subject to the laws or regulations restricting entry or movement for reasons of national security, the Contracting Party shall extend all facilities for the uninterrupted passage within its territory as well as for the entry and departure therefrom of the categories of persons mentioned below:

- (a) judges of the Court and members of their families forming part of their households;
- (b) officers of the Court and members of their families forming part of their households;
- (c) members of the Commission;
- (d) counsel and their clients appearing in proceedings before the Court;
- (e) persons appearing in proceedings before the Court;
- (f) persons other than officers of the Court performing missions for the Court and members of their families forming part of their households; and
- (g) other persons invited to the Seat of the Court or the offices of the Commission on official business.

2. The Registrar shall communicate to the Government the names of the persons mentioned in paragraph 1 of this Article.

3. This Article shall not be applicable in case of a general interruption of transportation and shall not impede the effective application of laws in force nor waive the reasonable application of quarantine and health regulations.

4. Visas required by persons referred to in paragraph 1 of this Article shall be granted by the Government expeditiously and free of charge.

## ARTICLE XII

## SETTLEMENT OF DISPUTES

1. The President shall make appropriate provisions for the settlement of:

- (a) disputes arising out of contracts and other disputes of a private law character to which the Court or the Commission is a party;
- (b) disputes involving any judge or officer of the Court or Counsel conducting proceedings before the Court enjoying immunity if such immunity has not been waived by the persons empowered in that behalf.

2. Any difference between the Government and the Court or the Commission arising out of the interpretation or application of this Protocol and which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to a Tribunal of three arbitrators at the instance of any Contracting Party to this Protocol: one to be appointed by the Government, one to be appointed by the Registrar, and the third, who shall be the Chairman of the Tribunal, to be chosen by the first two arbitrators.

3. If any of the parties fails to appoint an arbitrator within six weeks of the decision to resort to arbitration, an arbitrator or arbitrators, as the case may be, shall be appointed for such purposes by the Secretary-General.

4. If the first two arbitrators within three weeks of their appointment fail to agree upon the third arbitrator, the Government or the Registrar shall request the Secretary-General to appoint the third arbitrator.

5. A majority vote of the arbitrators shall be sufficient to reach a decision which shall be final and binding.

6. The Chairman shall be empowered to settle all questions of procedure in any case where there is disagreement between the other arbitrators in respect thereto.

## ARTICLE XIII

## SIGNATURE

This Protocol shall be open for signature by the Contracting Parties to the Agreement.

## ARTICLE XIV

## ENTRY INTO FORCE

This Protocol shall enter into force immediately upon signature by at least three Contracting Parties to the Agreement.

## ARTICLE XV

## ACCESSION

1. Any Contracting Party to the Agreement may accede to this Protocol.

2. Instruments of accession shall be deposited with the Secretary-General who shall transmit certified copies to the Governments.

## ARTICLE XVI

## AMENDMENTS

1. Consultations in respect of any amendment to this Protocol may be initiated either by the Government or the Registrar.

2. Amendments shall enter into force upon their acceptance by all of the Contracting Parties.

## ARTICLE XVII

## DEPOSITARY

This Protocol and any amendment thereto shall be deposited with the Secretary-General who shall transmit certified copies thereof to the Contracting Parties.

## ARTICLE XVIII

## IMPLEMENTATION

Each Contracting Party shall promptly inform the Conference of the action which it has taken to make effective the provisions of this Protocol in its territory.

## ARTICLE XIX

## WITHDRAWAL

1. A Contracting Party which withdraws from the Agreement, may also withdraw from this Protocol by giving notice in writing to the Depositary who shall promptly notify the other Contracting Parties accordingly.

2. Withdrawal shall take effect five years after the date on which the notice was received by the Depositary, unless the Contracting Party before the withdrawal becomes effective notifies the Depositary in writing of the cancellation of its notice of withdrawal.

3. A Contracting Party withdrawing from this Protocol shall honour all obligations assumed by it before the effective date of its withdrawal.

IN WITNESS WHEREOF the undermentioned representatives duly authorised in that behalf have executed this Protocol for their respective Governments.

Done at                    on the   day of                    2003

Signed by for the Government of Antigua and Barbuda on  
the                    day of                    2003 at

Signed by for the Government of Barbados on  
the                    day of                    2003 at

Signed by for the Government of Belize on the  
day of                    2003 at

Signed by for the Government of the Commonwealth of  
Dominica on the                    day of                    2003 at

Signed by for the Government of Grenada on the                    day of  
2003 at

Signed by for the Government of the Co-operative Republic of  
Guyana on the                    day of                    2003 at

Signed by for the Government of Jamaica on  
the                    day of                    2003 at

Signed by for the Government of Montserrat on the                    day  
of                    2003 at

Signed by for the Government of St. Kitts and Nevis on  
the                    day of                    2003 at

Signed by for the Government of Saint Lucia on the  
day of 2003 at

Signed by for the Government of St. Vincent and the  
Grenadines on the day of 2003 at

Signed by for the Government of The Republic of Suriname on  
the day of 2003 at

Signed by for the Government of The Republic of Trinidad and  
Tobago on the day of 2003 at

Passed in the House of Representatives this  
2nd day of February, 2005.

J. SAMPSON-JACENT

*Clerk of the House*

Passed in the Senate this 9th day of March, 2005.

N. JAGGASSAR

*Acting Clerk of the Senate*