

Trinidad Cement Limited and TCL Guyana Incorporated v The State of the Co-operative Republic of Guyana

Citation: [\[2008\] CCJ 1 \(OJ\)](#)
Date of Judgment: 22 July 2008
Nature of Judgment: Judgment on special leave
Composition of the Court: President: M de la Bastide
Judges: R Nelson, D Pollard, A Saunders, D Bernard, J Wit, D Hayton

CCJ Application No	Parties
AR 1 of 2008	Applicants Trinidad Cement Limited TCL Guyana Incorporated Respondent The State of the Co-operative Republic of Guyana

Counsel

- Applicants:
Dr C Denbow SC, Attorney-at-Law
- Respondent:
Mr D Singh SC, Attorney-General

Nature of Dispute

This dispute concerned an allegation by the Applicants that the State of the Co-operative Republic of Guyana (Guyana) breached Article 82 of the Revised Treaty of Chaguaramas (RTC) by suspending the Common External Tariff (CET) on cement from third States, without the requisite authority of the Council for Trade and Economic Development (COTED). The Applicants applied for special leave of the Court under Article 222 of the RTC to bring proceedings against Guyana.

Summary of Legal Conclusions and Orders

- The Court adjourned the application for special leave and ordered the Registrar to issue a Notice to the Community and Contracting Parties other than Guyana, inviting written submissions on the application for special leave.
- The Court reserved its Order as to costs on the application to a later stage of the proceedings.

Legal Provisions at Issue

- Articles 32(5), 82, 83, 84, 216(1), 216(2), 217 and 222 of the RTC

Other Relevant Community Law / Material Relied on

- Articles XVI(1), XVI(2) and XVII of the Agreement Establishing the Caribbean Court of Justice (the CCJ Agreement)

Past CCJ Case Law

- N/A

Other Sources of International Law

- N/A

Facts

The first Applicant, Trinidad Cement Limited (TCL), is a company incorporated in Trinidad and Tobago. The second Applicant, TCL Guyana Incorporated (TGI), is incorporated in Guyana and 80% of its shares are owned by TCL, the first Applicant. The Applicants are engaged in the manufacture and distribution of cement within the Caribbean Community (CARICOM). The Applicants applied to the Court for special leave to bring proceedings against the Respondent, Guyana, under Article 222 of the RTC. The Applicants intended to argue, if granted special leave from the Court, that Guyana had violated Article 82 of the RTC by suspending the CET on cement from third countries, without obtaining the requisite authority to do so from COTED.

Findings

The Court found that to be granted special leave under Article 222 of the RTC, private parties, natural or juridical, must bring themselves within the meaning of the term “persons” in the chapeau of Article 222. In considering whether the Applicants should be granted special leave under Article 222 of the RTC, the Court considered that there were two issues before it: (i) whether it is sufficient for a company to be incorporated or registered under the domestic legislation of a Contracting Party to be considered a juridical person of that Contracting Party under Article 222; and (ii) whether Article 222 accords to a juridical person of a Contracting Party the right to sue that Contracting Party.

In the Court’s view, these issues, arising in the context of the first case to be brought under the Court’s original jurisdiction, were important for determining the rights and obligations of the Contracting Parties and private parties in their jurisdictions. Accordingly, the Court wished to allow the Community and the Contracting Parties to make written legal submissions on these issues before deciding the matter.

The Court, therefore, reserved its decision on the application for special leave and ordered the Registrar to issue a Notice within seven days inviting the Contracting Parties other than

Guyana, as well as the Community, to make written submissions on the two issues that the Court had delineated for consideration. The Court reserved its Order as to costs on the application for special leave to a later stage of the proceedings.

This summary should not be used as a substitute for the decision of the Caribbean Court of Justice.