

Hummingbird Rice Mills Limited v Suriname and The Caribbean Community

Citation: [\[2012\] CCJ 2 \(OJ\)](#)
Date of Judgment: 11 April 2012
Nature of Judgment: Judgment on costs
Composition of the Court: Judges: R Nelson, A Saunders, J Wit, D Hayton and W Anderson

CCJ Application No	Parties	
OA 1 of 2011	Claimant	Hummingbird Rice Mills Limited
	Defendants	Suriname The Caribbean Community

Counsel

- N/A

Nature of Dispute

The dispute involved a claim by Hummingbird Rice Mills Limited, a Trinidad and Tobago company that produces flour, that Suriname, and the Caribbean Community with respect to Suriname's failure to impose the Common External Tariff (CET) on wheat or meslin flour originating from outside CARICOM. The Court concluded in a separate judgment that Suriname had violated Article 82 of the Revised Treaty of Chaguaramas (RTC) and ordered submissions by the parties on costs.

Summary of Legal Conclusions and Orders

- The Court ordered Suriname to pay 50% of the costs incurred by the Claimant in these proceedings including the special leave proceedings.
- The Court ordered CARICOM to bear its own costs.

Legal Provisions at Issue

- Articles 15, 82, 83 and 222 of the RTC

Other Relevant Community Law / Material Relied on

- Part 30.1(3) of the CCJ Original Jurisdiction Rules 2006

Past CCJ Case Law

- *Hummingbird Rice Mills Ltd v Suriname and the Caribbean Community* [2012] CCJ 1 (OJ)
- *Hummingbird Rice Mills Ltd v Suriname and the Caribbean Community* [2011] CCJ 1 (OJ)

Other Sources of International Law

- N/A

Facts

The Claimant, Hummingbird Rice Mills Limited, is a limited liability company incorporated in Trinidad and Tobago and engaged in the production of flour. The dispute arose out of Suriname's failure to impose the CET on flour from extra-regional sources. In a separate judgment, the Court affirmed that Suriname had violated Article 82 of the RTC by failing to impose the CET on flour. The Court, however, declined to award damages to the Claimant as it had failed to adduce sufficient evidence of the loss resulting from Suriname's breach. The Court further dismissed the Claimant's claims against the Caribbean Community with respect to the non-imposition of the CET on flour and ordered the parties to provide submissions on the issue of costs.

Findings

The Claimant argued that it should receive its full costs from Suriname and that CARICOM should not be condemned in costs. Suriname submitted that both the Claimant and Suriname should bear their own costs because the Claimant was only partially successful in its claims. For its part, the Community submitted that the Claimant should bear the costs of CARICOM.

The Court found that the severity and duration of the Defendant's breach of the RTC was so egregious that the Claimant was entitled, and right to commence these proceedings. While the Claimant did not ultimately recover damages for Suriname's breach, the Court considered that, in all the circumstances, Suriname should pay 50% of the Claimant's cost.

As regards the costs of CARICOM, the Court had regard to Part 30.1(3) of its Original Jurisdiction Rules which provides that, in exceptional circumstances, the Court may order that the costs be shared or that the parties bear their own costs. Noting that whether exceptional circumstances exist for the purposes of Part 30.1(3) must be determined on a case-by-case basis, the Court considered that, at this nursery stage of the development of Caribbean Community law, it is important that the burden of establishing the basic principles underpinning the Single Market should not weigh too heavily and disproportionately on private entities. The Court also took into account the Claimant's persistent efforts, over a period of

several years, to have the CET imposed, and observed that, with the very able assistance of counsel for CARICOM, it had been able to clarify further the roles of the Council for Trade and Economic Development (COTED) and the Secretary-General in relation to the CET. Taking these circumstances into account, the Court considered it appropriate that, as between the Claimant and CARICOM, each party should bear its own costs.

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