



# Closing Ceremony of the XII Annual Caribbean Court of Justice International Law Moot

The Honourable Mr Justice Adrian  
Saunders, President of the Caribbean Court  
of Justice

## **XII Annual Caribbean Court of Justice International Law Moot**

Virtual  
18 March 2022

**The Caribbean Court of Justice (CCJ)** was inaugurated in Port of Spain, Republic of Trinidad and Tobago on 16 April 2005 and presently has a Bench of seven judges presided over by CCJ President, the Honourable Mr Justice Adrian Saunders. The CCJ has an Original and an Appellate Jurisdiction and is effectively, therefore, two courts in one. In its Original Jurisdiction, it is an international court with exclusive jurisdiction to interpret and apply the rules set out in the Revised Treaty of Chaguaramas (RTC) and to decide disputes arising under it. The RTC established the Caribbean Community (CARICOM) and the CARICOM Single Market and Economy (CSME). In its Appellate Jurisdiction, the CCJ is the final court of appeal for criminal and civil matters for those countries in the Caribbean that alter their national Constitutions to enable the CCJ to perform that role. At present, four states access the Court in its Appellate Jurisdiction, these being Barbados, Belize, Dominica and Guyana.

## **ADDRESS**

**By**

**The Honourable Mr Justice Adrian Saunders, President of the Caribbean Court of Justice,**

**on the occasion of**

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### **Protocols:**

- The Honourable Mr Justice Burgess, Chairman of the CCJ International Law Moot Committee
- My esteemed colleague Judges of the Caribbean Court of Justice:
- Heads of Judiciaries and Judicial Officers from across the region
- Ms. Jacqueline Graham, Registrar and Chief Marshal, CCJ
- Representatives from Diplomatic Missions
- Principals and Deans of Participating institutions
- Representatives from regional Bar Associations and stakeholder organisations
- Management and Staff of the Caribbean Court of Justice and the Regional Judicial and Legal Services Commission
- OUR 2022 MOOTERS!!!!
- Other Specially Invited Guests
- Members of the Media
- Distinguished Ladies and Gentlemen,

Good afternoon.

I wish to begin with hearty commendations to The Honourable Mr Justice Burgess and the entire CCJ Moot Committee for a brilliantly executed programme this year. This is the first moot with Justice Burgess at the helm since he assumed responsibility for our International Law Moot

following Justice Hayton's retirement from the Court in July 2019. This is also the first competition since the onset of the Covid-19 pandemic. Prior to March 2020, the competition was an annual red-letter fixture on the Court's calendar since its inauguration in 2009. With the return of the competition this year, Justice Burgess and his Committee spared absolutely no effort in ensuring that this 12<sup>th</sup> occasion was a huge success.

Despite being virtual, this year's Moot was at least, no less robust than its predecessors. The social media campaign that accompanied and immediately preceded it, including the video presentations from the Moot Committee Chair and from former mooters, and the social media spirit prize competition, gave it a flair and panache that we had not previously employed. I believe that these enhancements heightened regional awareness and interest in the competition and contributed to the moot reaching a wider audience. Justice Burgess and his Committee have now therefore set the bar higher for succeeding Moots to emulate.

To the Panel of Moot judges, comprising The Honourable Mr Justice Wit, The Honourable Mr Justice Anderson and The Honourable Mme Justice Rajnauth-Lee, the Court expresses sincere thanks to you for your role in presiding over these proceedings in no less efficient and effective a manner as if you had appearing before you the finest counsel of the Caribbean. Thank you for your patience and your consummate professionalism.

Much like readying oneself for a real case, preparing for a moot takes a great many hours of preparation and precise execution by several persons. The Advocates must have an excellent command of the facts, applicable law and how that law affects their case. They must be able to

respond readily, unphased, to interventions from the Bench; take cues from the Judges; and seamlessly transition back and forth into the substance of their presentation without getting side tracked. The confident and skilful manner in which I heard the students deploy their legal arguments convinced me that the future is in great hands. You have all held high the torches of your respective institutions and you have added to the rich legacy of the CCJ's Annual Moot. I extend heartiest congratulations to each of you on a job well done. Congratulations are also extended to your team members who participated as registry and information technology support personnel; and to all the mentors and advisors who assisted you in your preparations. I wish also to thank our own Court staff from the various Units – whether the Information Systems Unit, our Judicial Counsel, our Public Education and Protocol Unit Information, our Registry, our Library, our Finance and Administration Department, all our Court personnel who facilitated the proceedings.

As I said at yesterday's opening ceremony, each year the CCJ Moot Committee skilfully crafts a challenging brief. This year's was no different. Mooters were required to confront a thorny set of facts that raised the issue of referrals to the CCJ under Article 214 of the Revised Treaty. Do national courts have a discretion to refer a question to the CCJ where determination of that question impacts the ultimate resolution of the case before the national court? Would a Member State be liable for the failure of its courts, including its final court of appeal, to refer in such circumstances? What is the extent of a party's obligation to raise before a national court the issue of referral where that party forms the view that the determination of the issue in question is critical to the resolution of the case before the national court? These are not esoteric questions. They are real and this is

uncharted territory for CSME jurisprudence. As I indicated yesterday, your reflections on these questions will provide us with much food for thought.

Given the absence to date of any referrals from national courts and tribunals, the Court and the CCJ Academy for Law have been working steadily to develop a manual on the referral procedure and its Treaty underpinnings. Our hope is that this will become a useful resource for practitioners and judges alike. The manual is just about complete, and plans are afoot to facilitate a number of sensitisation sessions on it later this year.

Notwithstanding the position with respect to referrals, in recent times we have seen signs that point to an expanded use of the Court's original jurisdiction. In 2019, for example, the Caribbean Community (CARICOM) filed the first request for an advisory opinion from the Court. That opinion was delivered in 2020 and went a long way in clarifying issues relating to opt-outs of Conference Decisions. In 2020, also for the first time in the Court's history, a Member State filed suit against another Member State in alleging breaches of the Revised Treaty.

These developments signal a growing trust and confidence of CARICOM States and the Community in the integrity of the Court's decision making and its judicial processes. This augurs well for our Community, which is 'the oldest surviving integration movement in the developing world'<sup>1</sup>.

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<sup>1</sup> Caribbean Community, 'WHO WE ARE: Our Journey' available at <<https://caricom.org/our-community/who-we-are/#:~:text=CARICOM%20is%20the%20oldest%20surviving,%2C%20in%20culture%2C%20in%20security.>> accessed 17 March 2022.

In closing, I wish to reiterate for our law students what I said at the opening ceremony yesterday. You are all heirs to a great tradition within this Caribbean Community. It is your responsibility to carry on, with singleness of purpose and undying commitment, the cause of deeper regional integration. I trust that your experience over the course of this competition has kindled that desire and fortified your willingness to serve as ambassadors of both this great Caribbean project and, in particular, of the CCJ. As the years progress, and as you hone your skills, we hope to see many, if not all, of you again - whether as interns, Judicial Counsel or advocates before the Court.

Thank you.