

PROTOCOL

TO THE

AGREEMENT ESTABLISHING THE

CARIBBEAN COURT OF JUSTICE

RELATING TO THE TENURE OF JUDGES,

RULES OF COURT, FINANCIAL ARRANGEMENTS AND

WITHDRAWAL FROM AGREEMENT

AS WELL AS

THE RELATIONSHIP BETWEEN PROVISIONS

ON THE

ORIGINAL JURISDICTION OF THE CARIBBEAN

COURT OF JUSTICE AND THE CONSTITUTIONS OF

STATES PARTIES

**PROTOCOL TO THE AGREEMENT ESTABLISHING THE
CARIBBEAN COURT OF JUSTICE RELATING TO THE TENURE
OF JUDGES, RULES OF COURT, FINANCIAL ARRANGEMENTS
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RELATIONSHIP BETWEEN PROVISIONS ON THE ORIGINAL
JURISDICTION OF THE CARIBBEAN COURT OF JUSTICE AND
THE CONSTITUTIONS OF STATES PARTIES**

The **Contracting Parties** to the Agreement Establishing the Caribbean Court of Justice (hereinafter called "**the Agreement**"):

Recalling Article XXXII of the Agreement;

Desiring to effect certain amendments to the Agreement in order to

- (a) modify the provisions respecting the tenure of the Judges of the Court;
- (b) ensure that sound arrangements for the administration and financial sustainability of the Court are provided for;
- (c) clarify the circumstances governing withdrawal from the Agreement; and
- (d) make abundantly clear the relationship between the original jurisdiction of the Caribbean Court of Justice and the constitutional order in their respective jurisdictions.

Agree as follows:

Article I

Tenure of Office of Judges

Paragraph 5 of Article IX of the Agreement shall be reworded to read as follows:

5. (1) Subject to Article IV, paragraph 6, 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 7, 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.

Article II

Rules of the Court Governing Original Jurisdiction

In Article XXI of the Agreement, insert in paragraph 1, immediately before the word "five" the words "not less than two nor more than". The provision as amended shall read as follows:

"1. The President shall, in consultation with **not less than two nor more than** five other Judges of the Court selected by him, establish rules for the exercise of the original jurisdiction of the Court."

Article III

Appellate Jurisdiction of the Court

In Article XXV of the Agreement, insert in paragraph 7 (1), immediately before the word "five" the words "not less than two nor more than". The provision as amended shall read as follows:

"1. The President shall, in consultation with **not less than two nor more than** five other Judges of the Court selected by him, make Rules of Court for regulating the practice and procedure of the Court in the 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."

Article IV

Financial Provisions

Appendix II shall be deleted and Article XXVIII amended to read as follows:

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 **and as set out in the Annex to the Revised Agreement Establishing the Caribbean Court of Justice Trust Fund**. 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. **Subject to this Agreement and with the approval of the Heads of Government, the Commission shall determine the terms and conditions and other benefits of the President and other Judges of the Court.**

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 the members of the Commission, other than the Chairman **and to the Members of the Board of Trustees of the Caribbean Court of Justice Trust Fund**, the actual travelling expenses and subsistence allowance at such rate per day as the Heads of Government **of the Contracting Parties** may, from time to time, decide for the purpose of performing official duties as a member of the Commission.

Article V

Relationship to Constitutional Order

The provisions regarding the original jurisdiction set out in this Agreement shall not be construed to require a Contracting Party to enact legislation that is inconsistent with its constitutional structure or the nature of its legal system.

Article VI

Withdrawal

Article XXXVII of the Agreement shall be amended to read as follows:

“1. A Contracting Party may withdraw from this Agreement by giving 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 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.

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 VII

Signature

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

Article VIII

Ratification

This Protocol shall be subject to ratification. Instruments of Ratification shall be deposited with the Depositary who shall transmit certified copies to the Government of each Contracting Party.

Article IX

Relationship between this Protocol and the Agreement

This Protocol shall be read as one with the Agreement.

Article XI

Accession

1. This Protocol shall, after it has entered into force, be open for accession by any Caribbean country that is eligible to become a Contracting Party to the Agreement establishing the Caribbean Court of Justice in accordance with Article II of that Agreement.
2. A Caribbean country referred to in paragraph 1 may accede to this Protocol if at the same time it ratifies or accedes to the Agreement establishing the Caribbean Court of Justice in accordance with the provisions of Article II of that Agreement.
3. Instruments of Accession shall be deposited with the Depositary who shall transmit certified copies to the Government of each Contracting Party. Accession shall take effect one month after the date of deposit.

Article XII

Entry into Force

This Protocol shall enter into force in accordance with Article XXXII, paragraph 2 of the Agreement one month after the date on which the last Instrument of Ratification or Accession is deposited with the Secretary-General.

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

Done at Paramaribo, Suriname on the 17th day of February 2005

Signed by for the Government of Antigua and Barbuda on the 17th day of February 2005 at Paramaribo Suriname

Signed by Rt. Hon. Owen Arthur, Prime Minister for the Government of Barbados on the 17th day of February 2005 at Paramaribo, Suriname

Signed by the Hon. Said W. Musa, Prime Minister for the Government of Belize on the 17th day of February 2005 at Paramaribo, Suriname

Signed by
For the Government of Bahamas on the day of 2005 at

Signed by
For the Government of Commonwealth of Dominica on the day of 2005 at

Signed by Dr. the Hon. Keith Mitchell, Prime Minister for the Government of Grenada on the 17th day of February 2005 at Paramaribo, Suriname

Signed by
For the Government of Co-operative Republic of Guyana on the 17th day of February 2005 at Paramaribo, Suriname

Signed by
For the Government of Haiti on the day of 2005 at

Signed by the Rt. Hon. Percival J. Patterson, Prime Minister for the Government of Jamaica on the 17th day of February 2005 at Paramaribo, Suriname

Signed by
For the Government of Montserrat on the day of 2005 at

Signed by Dr. the Hon. Denzil Douglas, Prime Minister for the Government of St. Kitts and Nevis on the 17th day of February 2005 at Paramaribo, Suriname

Signed by
For the Government of Saint Lucia on the 17th day of February 2005 at Paramaribo, Suriname

Signed by Dr. the Hon. Ralph E. Gonsalves for the Government of St. Vincent and the Grenadines on the 17th day of February 2005 at Paramaribo, Suriname

Signed by H.E. the Hon. Dr. Runaldo E. Venetiaan, President for the Government of Suriname on the 17th day of February 2005 at Paramaribo, Suriname

Signed by Hon. Patrick Manning, Prime Minister for the Government of the Republic of Trinidad and Tobago on the 17th day of February 2005 at Paramaribo, Suriname